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CONSTITUTION

AUG 31

OF THE

COMMONWEALTH OF MASSACHUSETTS

AND THE

REARRANGEMENT THEREOF

PUBLISHED BY THE

SECRETARY OF THE COMMONWEALTH



BOSTON

WRIGHT & POTTER PRINTING CO., STATE PRINTERS

32 DERNE STREET

1920



110

920

A CONSTITUTION  
OR  
FORM OF GOVERNMENT

FOR  
The Commonwealth of Massachusetts

PREAMBLE.

4-18-49 J. L. L. C. C.  
The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness. Objects of government.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them. Body politic, how formed. Its nature.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into

## CONSTITUTION OF THE

an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

## PART THE FIRST.

*A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.*

Equality and natural rights of all men.

**Article I.** All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship. Protection therein. 2 Cush. 104. 12 Allen, 129. See amendments, Arts. XLVI and XLVIII.

**II.** It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Amendments, Art. XI, substituted for this.

**III.** [As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of God, and of public instructions in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers

Legislature empowered to compel provision for public worship.

of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Legislature to enjoin attendance thereon.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

Exclusive right of electing religious teachers secured.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

Option as to whom parochial taxes may be paid, unless, etc.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.]

All denominations equally protected.  
8 Met. 162.  
Subordination of one sect to another prohibited.

**IV.** The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled.

Right of self government secured.

**V.** All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

Accountability of all officers, etc.

**VI.** No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children,

Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.

Objects of gov-  
ernment; right  
of people to  
institute and  
change it.

Right of people  
to secure rota-  
tion in office.

All, having the  
qualifications  
prescribed,  
equally eligible  
to office. For  
the definition of  
"inhabitant,"  
see Part the  
Second, Ch. 1,  
Sect. 2, Art. II.

Right of protec-  
tion and duty  
of contribution  
correlative.  
Taxation  
founded on  
consent.  
16 Mass. 326.  
1 Pick. 418.  
7 Pick. 344.  
12 Pick. 184, 467.  
16 Pick. 87.  
23 Pick. 360.  
7 Met. 388.  
4 Gray, 474.  
7 Gray, 363.  
14 Gray, 154.  
1 Allen, 150.  
4 Allen, 474.  
Private prop-  
erty not to be  
taken for public  
uses without,  
etc.  
See amend-  
ments, Arts.  
XXXIX and  
XLVII.

or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

**VII.** Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

**VIII.** In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

**IX.** All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments. See amendments, Art. XLV. 122 Mass. 595, 596.

Freedom of elections, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2. For compulsory voting, see amendments, Art. LXI.

**X.** Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

6 Cush. 327.	12 Allen, 223, 230.	108 Mass. 202, 213.	126 Mass. 428, 441.
14 Gray, 155.	100 Mass. 544, 560.	111 Mass. 130.	127 Mass. 50, 52.
16 Gray, 417, 431.	103 Mass. 120, 624.	113 Mass. 45.	358, 363, 410, 413.
1 Allen, 150.	106 Mass. 356, 362.	116 Mass. 463.	129 Mass. 559.
11 Allen, 530.			

Right to receive compensation for private property appropriated to public use, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

**XI.** Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

Remedies, by recourse to the law, to be free, complete and prompt.

**XII.** No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

Prosecutions regulated.

100 Mass. 287, 295. 108 Mass. 5, 6. 122 Mass. 332. 127 Mass. 550, 554.  
103 Mass. 418. 118 Mass. 443, 451. 124 Mass. 464. 129 Mass. 559.  
107 Mass. 172, 180. 120 Mass. 118, 120.

Right of access to and protection in courts of justice, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

Right to trial by jury in criminal cases, except, etc.  
8 Gray, 329, 373.  
103 Mass. 418.

Right of trial by jury, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

**XIII.** In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

Crimes to be proved in the vicinity.  
2 Pick. 550.  
121 Mass. 61, 62.

**XIV.** Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

Right of search and seizure regulated.  
Const. of U. S., Amend't IV.  
2 Met. 329.  
5 Cush. 369.  
1 Gray, 1.  
13 Gray, 454.  
10 Allen, 403.  
100 Mass. 136, 139.  
126 Mass. 269, 273.

Protection from unreasonable search, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

Right to trial  
by jury sacred,  
except, etc.  
Const. of U. S.,  
Amend't VII.  
2 Pick. 382.  
7 Pick. 366.  
5 Gray, 144.  
8 Gray, 373.  
11 Allen, 574,  
577.  
102 Mass. 45, 47.

**XV.** In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

114 Mass. 388, 390.  
120 Mass. 320, 321.

122 Mass. 505, 516.  
123 Mass. 590, 593.

125 Mass. 182, 188.  
128 Mass. 600.

Right of trial by jury, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

Liberty of the  
press.

**XVI.** The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

Freedom of the press, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

Right to keep  
and bear arms.  
Standing armies  
dangerous.  
Military power  
subordinate to  
civil.  
5 Gray, 121.

**XVII.** The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Moral qualifica-  
tions for office.

**XVIII.** A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Moral obliga-  
tions of law-  
givers and  
magistrates.

Right of people  
to instruct rep-  
resentatives  
and petition  
legislature.

**XIX.** The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Right of peaceable assembly, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

Power to sus-  
pend the laws  
or their execu-  
tion.

**XX.** The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exer-

cised in such particular cases only as the legislature shall expressly provide for.

Modified by the popular initiative and referendum. See amendments, Art. XLVIII, I, Definition.

**XXI.** The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Freedom of debate, etc., and reason thereof.

Freedom of speech, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

**XXII.** The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

Frequent sessions, and objects thereof.

**XXIII.** No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

Taxation founded on consent.  
8 Allen, 247.

**XXIV.** Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

*Ex post facto* laws prohibited.  
12 Allen, 421, 424, 428, 434.

**XXV.** No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Legislature not to convict of treason, etc.

**XXVI.** No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

5 Gray, 482.

Excessive bail or fines, and cruel punishments, prohibited.

Protection from unreasonable bail, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.

**XXVII.** In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

No soldier to be quartered in any house, unless, etc.

**XXVIII.** No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

Citizens exempt from law-martial, unless, etc.

Protection from law-martial, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2.



Judges of supreme judicial court.

3 Pick. 471.  
1 Gray, 472.  
4 Allen, 591.  
7 Allen, 385.  
105 Mass. 219,  
221, 225.

Salaries.

Separation of executive, judicial, and legislative departments.

2 Cush. 577.  
2 Allen, 361.  
8 Allen, 247, 253.  
100 Mass. 282, 286.  
114 Mass. 247, 249.

**XXIX.** It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

Tenure of their office, not to be the subject of an initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

**XXX.** In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

116 Mass. 317.

129 Mass. 559.

For popular initiative and referendum, see amendments, Art. XLVIII.

For organization of executive, etc., work of the Commonwealth in not more than twenty departments, see amendments, Art. LXVI.

## PART THE SECOND.

### *The Frame of Government.*

Title of body politic.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

## CHAPTER I.

### THE LEGISLATIVE POWER.

#### SECTION I.

##### *The General Court.*

Legislative department.

**Article I.** The department of legislation shall be formed by two branches, a Senate and House of Represent-

atives; each of which shall have a negative on the other.

The legislative body shall assemble every year [on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May;] and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

**II.** No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

**III.** The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and

For change of time, etc., see amendments, Art. X.

Governor's veto. 99 Mass. 636.

For right of governor to return bill or resolve for amendment, see amendments, Art. LVI.

For disapproval or reduction of items by the governor in bills appropriating money, see amendments, Art. LXIII, sect. 5. Bill may be passed by two-thirds of each house, notwithstanding.

For exception in case of adjournment of the general court within the five days, see amendments, Art. I. General court may constitute judicatories, courts of record, etc. 8 Gray, 1. 12 Gray, 147, 154. See amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

Courts, etc.,  
may administer  
oaths.

General court  
may enact laws,  
etc.

9 Gray, 426.  
4 Allen, 473.  
12 Allen, 223,  
237.  
100 Mass. 544,  
557.  
116 Mass. 467,  
470.

For initiative  
and refer-  
endum, see  
amendments,  
Art. XLVIII.

General court  
may enact  
laws, etc., not  
repugnant to  
the constitu-  
tion.

6 Allen, 358.

may provide  
for the election  
or appointment  
of officers.

115 Mass. 602.

may prescribe  
their duties.

may impose  
taxes, etc.  
See amend-  
ments.

Arts. XLI and  
XLIV.

12 Mass. 252.  
5 Allen, 428.  
6 Allen, 558.  
8 Allen, 247, 253.  
10 Allen, 235.  
11 Allen, 268.  
12 Allen, 77,  
223, 235, 238,  
240, 298, 300,  
312, 313, 500, 512.  
98 Mass. 19.  
100 Mass. 285.  
101 Mass. 575,  
585.  
103 Mass. 267.  
114 Mass. 338,  
391.  
116 Mass. 461.  
118 Mass. 386,  
389.  
123 Mass. 493,  
495.  
127 Mass. 413.

may impose  
taxes, etc., to  
be disposed of

whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

**IV.** And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish, all manner of whole-some and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or with-out; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and consti-tution of whom are not hereafter in this form of govern-ment otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and mili-tary officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and sup-port of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the

manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

For the authority of the general court to charter cities, see amendments, Art. II.

For the state wide referendum on bills and resolves of the general court, see amendments, Art. XLII. Art. XLII annulled by initiative and referendum amendment, see amendments, Art. XLVIII, The referendum, VIII.

For the power given the general court to provide by law for absentee and compulsory voting, see amendments, Arts. XLV and LXI.

For the power given the general court to determine the manner of providing and distributing the necessities of life, etc., during time of war, public distress, etc., by the commonwealth and the cities and towns therein, see amendments, Art. XLVII.

for defence, protection, etc. 8 Allen, 247, 256.

Valuation of estates once in ten years, at least, while, etc. 8 Allen, 247. 126 Mass. 547.

## CHAPTER I.

### SECTION II.

#### *Senate.*

**Article I.** [There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may, from time to time, be divided by the general court for that purpose: and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth the limits of each district, and the number of councillors and senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

Senate, number of, and by whom elected. Superseded by amendments, Art. XIII, which was also superseded by amendments, Art. XXII.

For provision as to councillors, see amendments, Art. XVI.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for councillors and senators, viz.:—Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes County and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.]

Counties to be districts, until, etc.

Manner and time of choosing senators and councillors. See amendments, Arts. X, XV, XLV and LXIV, sect. 1. As to cities, see amendments, Art. II. Provisions as to qualifications of voters, superseded by amendments, Arts. III, XX, XXVIII, XXX, XXXI and XXXII. Word "inhabitant" defined. See also amendments, Art. XXIII, which was annulled by Art. XXVI. 12 Gray, 21, 122 Mass. 595, 597.

Selectmen to preside at town meetings.

Return of votes.

As to cities, see amendments, Art. II.

Time changed to first Wednesday of January. See amendments, Art. X.

Inhabitants of unincorporated plantations, who pay state taxes, may vote.

**II.** The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.: there shall be a meeting on the [first Monday in April,] [annually,] forever, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before the [first Monday in April,] for the purpose of electing persons to be senators and councillors; [and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that town, district, or plantation where he dwelleth, or hath his home.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May] [annually;] or it shall be delivered into the secretary's office seventeen days at least before the said [last Wednesday in May:] and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, seventeen days before the said [last Wednesday in May.]

[And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the

same privilege of voting for councillors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly.]

Plantation meetings.  
Time of election changed by amendments, Art. XV.  
Assessors to notify, etc.

**III.** And that there may be a due convention of senators on the [last Wednesday in May] annually, the governor with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by [a majority of] voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

Governor and council to examine and count votes, and issue summonses.  
Time changed to first Wednesday in January by amendments, Art. X.  
Majority changed to plurality by amendments, Art. XIV.

**IV.** The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, [on the said last Wednesday in May] [annually,] determine and declare who are elected by each district to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacan-

Senate to be final judge of elections, etc., of its own members.  
Time changed to first Wednesday of January by amendments, Art. X.  
Majority changed to plurality by amendments, Art. XIV.

Vacancies, how filled.  
Changed to election by people.  
See amendments, Art. XXIV.

Qualifications of a senator.  
Property qualification abolished.  
See amendments, Art. XIII.  
For further provision as to residence, see also amendments, Art. XXII.

Senate not to adjourn more than two days.  
See amendments, Art. LII.

shall choose its officers and establish its rules.  
shall try all impeachments.

Oath.

Limitation of sentence.

Quorum.  
See amendments, Arts. XXII and XXXIII.

Representation of the people.

cies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.]

**V.** Provided, nevertheless, that no person shall be capable of being elected as a senator, [who is not seised in his own right of a freehold, within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

**VI.** The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

**VII.** The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

**VIII.** The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

**IX.** [Not less than sixteen members of the senate shall constitute a quorum for doing business.]

## CHAPTER I.

### SECTION III.

#### *House of Representatives.*

**Article I.** There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

For change to biennial elections, see amendments, Art. LXIV, sect. 1.

**II.** [And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls may elect one representative; every corporate town containing three hundred and seventy-five ratable polls may elect two representatives; every corporate town containing six hundred ratable polls may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.]

Representatives, by whom chosen.  
Superseded by amendments, Arts. XII and XIII, which were also superseded by amendments, Art. XXI.  
7 Mass. 523.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.]

Proviso as to towns having less than 150 ratable polls.

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Towns liable to fine in case, etc.

[The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.]

Expenses of travelling to and from the general court, how paid.  
Annulled by Art. XXXV.

**III.** Every member of the house of representatives shall be chosen by written votes; [and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seised in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.]

Qualifications of a representative.  
New provision as to residence. See amendments, Art. XXI.  
Property qualifications abolished by amendments, Art. XIII.

**IV.** [Every male person, being twenty-one years of age, and resident in any particular town in this commonwealth for the space of one year next preceding, having a freehold estate within the said town of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.]

Qualifications of a voter.  
These provisions superseded by amendments, Arts. III, XX, XXVIII, XXX, XXXI, XXXII and XLV.

See also amendments, Art. XXIII, which was annulled by Art. XXVI.

**V.** [The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.]

Representatives, when chosen.

Time of election changed by amendments, Art. X, and changed again by amendments, Art. XV.



House alone  
can impeach.

**VI.** The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House to originate all money bills.

**VII.** All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Not to adjourn more than two days.  
See amendments, Art. LII.

**VIII.** The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

Quorum.  
See amendments, Arts. XXI and XXXIII.

**IX.** [Not less than sixty members of the house of representatives shall constitute a quorum for doing business.]

To judge of returns, etc., of its own members; to choose its officers and establish its rules, etc.  
May punish for certain offences.  
14 Gray, 226.

**X.** The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

Privileges of members.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

Senate.  
Governor and council may punish.  
General limitation.  
14 Gray, 226.

**XI.** The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Trial may be by committee, or otherwise.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

## CHAPTER II.

## EXECUTIVE POWER.

## SECTION I.

*Governor.*

**Article I.** There shall be a supreme executive magistrate, who shall be styled — **THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS**; and whose title shall be — **HIS EXCELLENCY**.

Governor.

His title.

**II.** The governor shall be chosen [annually;] and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; [and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds;] [and unless he shall declare himself to be of the Christian religion.]

To be chosen annually. For change to biennial elections, see amendments, Art. LXIV, sects. 1-4. Qualifications. See amendments, Arts. VII and XXXIV.

**III.** Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the [first Monday of April] [annually,] give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the [last Wednesday in May]; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May]; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives on the [last Wednesday in May], to be by them examined; and in case of an election by a [majority] of all the votes returned, the choice shall be by

By whom chosen, if he have a majority of votes. See amendments, Art. XLV.

Time of election changed by amendments, Art. X, and changed again by amendments, Art. XV.

As to cities, see amendments, Art. II.

Time changed to first Wednesday of January by amendments, Art. X.

Changed to plurality by amendments, Art. XIV.

How chosen,  
when no per-  
son has a  
plurality.

them declared and published; but if no person shall have a [majority] of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

Power of gov-  
ernor, and of  
governor and  
council.

**IV.** The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

May adjourn  
or prorogue the  
general court  
upon request,  
and convene  
the same.  
As to dissolu-  
tion, see  
amendments,  
Art. X.

**V.** The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

As to dissolu-  
tion, see  
amendments,  
Art. X.

[And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.]

Governor and  
council may  
adjourn the  
general court  
in cases, etc.,  
but not ex-  
ceeding ninety  
days.

**VI.** In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

Governor to be  
commander-in-  
chief.  
This article  
annulled and  
superseded by  
amendments,  
Art. LIV.

**VII.** [The governor of this commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy;

and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the state to which they cannot otherwise conveniently have access.] Limitation.

**VIII.** The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned. Governor and council may pardon offences, except, etc.  
But not before conviction.  
109 Mass. 323.

**IX.** All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of pro- Judicial officers, etc., how nominated and appointed.

For provisions as to election of attorney-general, see amendments, Arts. XVII and LXIV, sect. 1.

bate,] shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

For provision as to election of sheriffs, registers of probate, etc., see amendments, Art. XIX.

For provision as to appointment of notaries public, see amendments, Arts. IV. and LVII.

Appointment, tenure, etc., of judges not to be the subject of an initiative or referendum petition; see amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

Militia officers, how elected. Limitation of age struck out by amendments, Art. V. This article annulled and superseded by amendments, Art. LIII.

**X.** [The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, [of twenty-one years of age and upwards;] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

How commissioned.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor, the officers elected.

Election of officers.

Major-generals, how appointed and commissioned.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

For provisions as to appointment of a commissary general, see amendments, Art. IV.

Vacancies, how filled, in case, etc.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

Officers duly commissioned, how removed. Superseded by amendments, Art. IV.

[And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.]

Adjutants, etc., how appointed.

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

Army officers, how appointed.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

Organization of militia.

The divisions of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in

force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.]

**XI.** No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

Certain appropriations of money from treasury not to be subjects of initiative or referendum petition. See amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

**XII.** All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent.

All public boards, etc., to make quarterly returns.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

**XIII.** As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes,

Salary of governor.

Money, how drawn from the treasury, except, etc. 13 Allen, 593.

and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salaries of justices of supreme judicial court.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Compensation of judges not to be the subject of an initiative or referendum petition; see amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

Salaries to be enlarged if insufficient.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

## CHAPTER II.

### SECTION II.

#### *Lieutenant-Governor.*

Lieutenant-governor; his title and qualifications. See amendments, Arts. VII and XXXIV.

For change to biennial elections, see amendments, Art. LXIV, sect. 1.

How chosen. Election by plurality provided for by amendments, Art. XIV.

**Article I.** There shall be [annually] elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be — HIS HONOR; and who shall be qualified, in point of [religion,] [property,] and residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have [a majority] of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have [a majority] of the votes of the people to be governor.

President of council. Lieutenant-governor a member of, except, etc.

**II.** The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

Lieutenant-governor to be acting governor, in case, etc. See amendments, Art. LV.

**III.** Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

## CHAPTER II.

## SECTION III.

*Council, and the Manner of settling Elections by the Legislature.*

**Article I.** There shall be a council for advising the governor in the executive part of the government, to consist of [nine] persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

Council.  
Number of  
councillors  
changed to  
eight.  
See amend-  
ments, Art.  
XVI.

**II.** [Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.]

Number; from  
whom, and  
how chosen.  
Modified by  
amendments,  
Arts. X and  
XIII.  
Superseded by  
amendments,  
Art. XVI.

If senators be-  
come council-  
lors, their seats  
to be vacated.

**III.** The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

Rank of  
councillors.

**IV.** [Not more than two councillors shall be chosen out of any one district of this commonwealth.]

No district to  
have more  
than two.

Superseded by amendments, Art. XVI.

**V.** The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

Register of  
council.

**VI.** [Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority to do, and execute, all and every such acts, matters, and things, as the governor or the lieutenant-governor might or could, by

Council to  
exercise the  
power of gov-  
ernor in case,  
etc.  
This article  
annulled and  
superseded by  
amendments,  
Art. LV.



virtue of this constitution, do or execute, if they, or either of them, were personally present.]

Elections may be adjourned until, etc.

Order thereof. Superseded by amendments, Arts. XVI and XXV.

**VII.** [And whereas the elections appointed to be made, by this constitution, on the [last Wednesday in May annually,] by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: [the vacancies in the senate, if any, shall first be filled up;] the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.]

## CHAPTER II.

### SECTION IV.

#### *Secretary, Treasurer, Commissary, etc.*

Secretary, etc., by whom and how chosen. For provision as to election of secretary, treasurer and receiver-general, auditor and attorney-general, see amendments, Arts. XVII and LXIV, sect. 1. Treasurer ineligible for more than five successive years.

Secretary to keep records; to attend the governor and council, etc.

**Article I.** [The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives in one room. And, that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.]

For provision as to appointment of notaries public and the commissary-general, see amendments, Arts. IV and LVII.

Treasurer and receiver-general ineligible to election for more than three successive terms. See amendments, Art. LXIV, sect. 2.

**II.** The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

## CHAPTER III.

### JUDICIARY POWER.

Tenure of all commissioned officers to be expressed. Judicial officers to hold office

**Article I.** The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly ap-

pointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

For tenure, etc., of judges, see amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

For retirement of judicial officers, see amendments, Art. LVIII.

**II.** Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required.  
122 Mass. 600.  
126 Mass. 557, 561.

**III.** In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

Justices of the peace; tenure of their office.  
3 Cush. 584.

**IV.** The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

For removal of justices of the peace, see amendments, Art. XXXVII.

**V.** All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

Provisions for holding probate courts.  
12 Gray, 147.

Marriage, divorce, and alimony. Other provisions made by law.  
105 Mass. 327.

116 Mass. 317.

## CHAPTER IV.

### DELEGATES TO CONGRESS.

[The delegates of this commonwealth to the congress of the United States, shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have

Delegates to congress.

commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.]

## CHAPTER V.

### THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

#### SECTION I.

##### *The University.*

Harvard  
College.

**Article I.** Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America, — it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Powers, privi-  
leges, etc., of  
the president  
and fellows,  
confirmed.

**II.** And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity

All gifts,  
grants, etc.,  
confirmed.

aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors.

III. [And whereas, by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council, and senate of this commonwealth, are, and shall be deemed, their successors, who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard College; provided, that] nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

Who shall be overseers.

See Statutes,  
1851, 224.  
1852, 27.  
1859, 212.  
1868, 173.  
1890, 65, 144.  
1899, 104, 132.  
1891, 166.  
1895, 45.  
1896, 191.  
1901, 187, 488.  
1902, 243.  
1910, 113.  
1914, 598.

Power of alteration reserved to the legislature.

## CHAPTER V.

### SECTION II.

#### *The Encouragement of Literature, etc.*

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and

Duty of legislatures and magistrates in all future periods.  
For further provisions as to public schools, see amendments, Arts. XVIII and XLVI.  
12 Allen, 500-503.  
103 Mass. 94, 97.

immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people.

## CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVIVAL OF THE CONSTITUTION, ETC.

Oaths, etc.

**Article I.** [Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

Abolished.  
See amend-  
ments, Art.  
VII.

“I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seised and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected.”

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being.]

Declaration  
and oaths of  
all officers.

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.:

For new oath  
of allegiance,  
see amend-  
ments, Art. VI.

[“I, A. B., do truly and sincerely acknowledge, profess, testify, and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and

independent state; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection, and obedience to the king, queen, or government of Great Britain (as the case may be), and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this commonwealth, except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation, and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, God.”]

“I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as \_\_\_\_\_, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, God.” Oath of office.

Provided, always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath[s], he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, [*“I do swear,” “and abjure,” “oath or,” “and abjuration,”* in the first oath, and in the second oath, the words] *“swear and,”* and [in each of them] the words *“So help me, God;”* subjoining instead thereof, *“This I do under the pains and penalties of perjury.”* Proviso.  
See amend-  
ments, Art. VI.

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitu- Oaths and  
affirmations,  
how adminis-  
tered.

tion; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

Plurality of offices prohibited to governor, etc., except, etc. See amendments, Art. VIII.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

Same subject.  
1 Allen, 553.

No person shall be capable of holding or exercising at the same time, within this state, more than one of the following offices, viz.: judge of probate — sheriff — register of probate — or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

Incompatible offices.  
For further provisions as to incompatible offices, see amendments, Art. VIII.  
Officers of Harvard College excepted by amendments, Art. XXVII.

No person holding the office of judge of the supreme judicial court — secretary — attorney-general — solicitor-general — treasurer or receiver-general — judge of probate — commissary-general — [president, professor, or instructor of Harvard College] — sheriff — clerk of the house of representatives — register of probate — register of deeds — clerk of the supreme judicial court — clerk of the inferior court of common pleas — or officer of the customs, including in this description naval officers — shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

Incompatible offices.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

Bribery, etc., disqualify.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due

course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

**III.** [In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require.]

Value of money ascertained.

Property qualifications may be increased. See amendments, Arts. XIII and XXXIV.

**IV.** All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

Provisions respecting commissions.

**V.** All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Provisions respecting writs. 2 Pick. 592. 3 Met. 58. 13 Gray, 74.

**VI.** All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

Continuation of former laws, except, etc. 1 Mass. 59. 2 Mass. 534. 3 Pick. 309, 316. 16 Pick. 107, 115. 2 Met. 118.

**VII.** The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Benefit of *habeas corpus* secured, except, etc.

**VIII.** The enacting style, in making and passing all acts, statutes, and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same."

The enacting style.

**IX.** [To the end there may be no failure of justice, or danger arise to the commonwealth from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy,

Officers of former government continued until, etc.



## CONSTITUTION OF THE

all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies, and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority; until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers, and authority.]

Provision for revising constitution. For existing provision as to amendments, see amendments, Art. IX.

**X.** [In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

Provision for revising constitution.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the state, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.]

Provision for preserving and publishing this constitution.

**XI.** This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws.

## ARTICLES OF AMENDMENT.

Bill, etc., not approved within five days, not to become a law

**Article I.** If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been

laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

**Art. II.** The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

**Art. III.** Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, [and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned,] shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election.

For provision as to those who have served in the army or navy in time of war, see amendments, Arts. XXVIII and XXXI. See also amendments, Art. XXIII, which was annulled by amendments, Art. XXVI.

For absentee voting, see amendments, Art. XLV.

**Art. IV.** Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed,

if legislature adjourn in the mean time.  
3 Mass. 567.  
See Const., Ch. I, § 1, Art. II.

General court empowered to charter cities.  
122 Mass. 354.  
See amendments, Arts. XLVII and XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

Proviso.  
112 Mass. 200.

Qualifications of voters for governor, lieutenant-governor, senators and representatives.  
See amendments, Arts. XXX, XXXII, XL and XLV.  
11 Pick. 538, 540.  
14 Pick. 341.  
14 Mass. 367.  
5 Met. 162, 298, 591, 594.  
7 Gray, 299.  
122 Mass. 595, 597.  
124 Mass. 596.  
For educational qualification, see amendments, Art. XX.

Notaries public, how appointed and removed.

See amend-  
ments, Art.  
XXXVII.

and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

For appointment of women as notaries public, see amendments, Art. LVII.

Vacancies in  
the offices of  
secretary and  
treasurer, how  
filled.  
This clause  
superseded by  
amendments,  
Art. XVII.

[In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.]

Commissary-  
general may be  
appointed, in  
case, etc.

[Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed, and commissioned, in such manner as the legislature may, by law, prescribe.]

Militia officers,  
how removed.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe.]

Last two paragraphs of Art. IV annulled and superseded by amendments, Art. LIII.

Who may vote  
for captains and  
subalterns.

**Art. V.** [In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.]

This article annulled and superseded by amendments, Art. LIII.

Oath to be  
taken by all  
officers.  
See Const.,  
Ch. VI, Art. I.

**Art. VI.** Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit:—

“I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.”

Proviso.  
Quakers may  
affirm.

*Provided*, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me, God,” and subjoining, instead thereof, the words, “This I do under the pains and penalties of perjury.”

Tests abol-  
ished.

**Art. VII.** No oath, declaration, or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-

governor, councillors, senators, or representatives, to qualify them to perform the duties of their respective offices.

**Art. VIII.** No judge of any court of this commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

Incompatibility  
of offices.  
122 Mass. 445,  
600.  
123 Mass. 525.

**Art. IX.** [If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.]

Amendments to  
constitution,  
how made.  
This article  
annulled by  
Art. XLVIII,  
General Pro-  
visions, VIII.

**Art. X.** The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and

Commence-  
ment of politi-  
cal year.  
Further provi-  
sion for  
assembling  
annually.  
See amend-  
ments, Art.  
LXIV, sect. 3.

Termination  
of political  
year.

Governor, etc.,  
to be elected  
biennially.  
See amend-  
ments, Art.  
LXIV, sect 1.

Meetings for the  
choice of gov-  
ernor, lieuten-  
ant-governor,  
etc., when to  
be held.  
This clause  
superseded by  
amendments,  
Art. XV.

Article, when  
to go into  
operation.

Inconsistent  
provisions  
annulled.

done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

[The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.]

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May, as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

[This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators, and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force, and go into operation, pursuant to the foregoing provision.]

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.]

**Art. XI.** Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:—

“As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.”

Religious freedom established. See Dec. of Rights, Art. III. See amendments, Arts. XLVI and XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.

122 Mass. 40, 41.

**Art. XII.** [In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality, a census of the ratable polls, in each city, town, and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more.

Census of ratable polls to be taken in 1837, and decennially thereafter. This article was superseded by amendments, Art. XIII, which was also superseded by amendments, Art. XXI.

Representatives, how apportioned.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Towns having less than 300 ratable polls, how represented.

Fractions, how represented.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Towns may unite into representative districts.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district to continue until the next decennial census of polls, for the election of a representative, or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council to determine the number of representatives to which each town is entitled.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives, which each city, town, and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town, and representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten years, thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives, which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town, or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

New apportionment to be made once in every ten years.

Inconsistent provisions annulled.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.]

**Art. XIII.** [A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

122 Mass. 595.

The several senatorial districts now existing shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times within ten years as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the commonwealth shall be settled.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns not entitled to a representative every year is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the commonwealth

Census of inhabitants to be taken in 1840, and decennially thereafter, for basis of representation. Provisions as to census superseded by amendments, Arts. XXI and XXII.

Senatorial districts declared permanent. Provisions as to senators superseded by amendments, Art. XXII.

House of representatives, how apportioned. Provisions as to representatives superseded by amendments, Art. XXI.

Small towns, how represented.

Towns may unite into representative districts.

Basis of representation, and ratio of increase.



shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

The governor and council to apportion the number of representatives of each town once in every ten years.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town, and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

Councillors to be chosen from the people at large. Provisions as to councillors superseded by amendments, Art. XVI.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation, or otherwise. No person shall be elected a councillor, who has not been an inhabitant of this commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the commonwealth.]

Freehold as a qualification for a seat in general court or council not required. Elections by the people to be by plurality of votes.

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

**Art. XIV.** In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Time of annual election of governor and legislature. For change to biennial elections, see amendments, Art. LXIV, sects. 1-4.

**Art. XV.** The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

For compulsory voting, see amendments, Art. LXI.

Eight councillors to be chosen by the people. 122 Mass. 595, 598. For change to biennial elections, see amendments, Art. LXIV, sects. 1-4. For compulsory voting, see

**Art. XVI.** Eight councillors shall be [annually] chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafterwards, shall

divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however,* that if, at any time, the constitution shall provide for the division of the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts, that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. [Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the state, or otherwise, shall be filled in like manner, as soon as may be, after such vacancies shall have happened.] And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

**Art. XVII.** The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen [annually,] on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of [one year] from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The

amendments,  
Art. LXI.  
Legislature to  
district state.

Proviso.

Eligibility  
defined.

Day and man-  
ner of election,  
etc.

Vacancies, how  
filled.  
For new pro-  
vision as to  
vacancies, see  
amendments,  
Art. XXV.

Organisation of  
the govern-  
ment.

Election of  
secretary,  
treasurer,  
auditor, and  
attorney-gen-  
eral by the  
people.  
For election  
biennially, etc.,  
see amend-  
ments, Art.  
LXIV, sect. 1.

For compulsory voting, see amendments, Art. LXI.

Vacancies, how filled.

To qualify within ten days, otherwise office to be deemed vacant.

Qualification requisite.

School moneys not to be applied for sectarian schools. For original provision as to schools, see constitution, Part First, Art. III. 12 Allen, 500, 508. 103 Mass. 94, 96. This article was superseded by amendments, Art. XLVI. Legislature to prescribe for the election of sheriffs, registers of probate, etc. See amendments, Art. XXXVI. 8 Gray, 1. 13 Gray, 74.

qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

**Art. XVIII.** [All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.]

**Art. XIX.** The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

**Art. XX.** No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

For absentee voting, see amendments, Art. XLV.

Reading constitution in English and writing, necessary qualifications of voters. *Providio.* For other qualifications, see amendments, Art. III. See also amendments, Art. XXIII, which was annulled by amendments, Art. XXVI.

**Art. XXI.** A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

Census of legal voters and of inhabitants, when taken, etc. See P. S. c. 31.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by

House of representatives to consist of 240 members. Legislature to apportion, etc. 10 Gray, 613.

Secretary shall certify to officers authorized to divide counties.

For compulsory voting, see amendments, Art. LXI.

Vacancies, how filled.

To qualify within ten days, otherwise office to be deemed vacant.

Qualification requisite.

School moneys not to be applied for sectarian schools. For original provision as to schools, see constitution, Part First, Art. III. 12 Allen, 500, 508. 103 Mass. 94, 96. This article was superseded by amendments, Art. XLVI. Legislature to prescribe for the election of sheriffs, registers of probate, etc. See amendments, Art. XXXVI. 8 Gray, 1. 13 Gray, 74.

qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

**Art. XVIII.** [All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.]

**Art. XIX.** The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

**Art. XX.** No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

For absentee voting, see amendments, Art. XLV.

Reading constitution in English and writing, necessary qualifications of voters. Proviso. For other qualifications, see amendments, Art. III. See also amendments, Art. XXIII, which was annulled by amendments, Art. XXVI.

**Art. XXI.** A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

Census of legal voters and of inhabitants, when taken, etc. See P. S. c. 31.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by

House of representatives to consist of 240 members. Legislature to apportion, etc. 10 Gray, 613.

Secretary shall certify to officers authorized to divide counties.

Meeting for  
division to be  
first Tuesday  
in August.  
Proceedings.

Qualifications  
of representa-  
tives.  
122 Mass. 595,  
598.

Districts to be  
numbered,  
described and  
certified.

Quorum.  
See amend-  
ments, Art.  
XXXIII.

Census, etc.  
See P. S. c. 31.

Voters to be  
basis of appor-  
tionment of  
senators.

Senate to con-  
sist of forty  
members.

law, — shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. [Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

**Art. XXII.** A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each

district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided, however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. [Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

Senatorial districts, etc. See amendments, Art. XXXIV.

Qualifications of senators.

Quorum. See amendments, Art. XXXIII.

**Art. XXIII.** [No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.]

Residence of two years required of naturalized citizens, to entitle to suffrage or make eligible to office. This article annulled by Art. XXVI.

**Art. XXIV.** Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the senators elected.

Vacancies in the senate.

**Art. XXV.** In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

Vacancies in the council.

**Art. XXVI.** The twenty-third article of the articles of amendment of the constitution of this commonwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be

Twenty-third article of amendments annulled.



otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.

Provisions of Art. II, Chap. VI, relating to officers of Harvard College, annulled.

Superseded by Art. XXXI.

**Art. XXVII.** So much of article two of chapter six of the constitution of this commonwealth as relates to persons holding the office of president, professor, or instructor of Harvard College, is hereby annulled.

**Art. XXVIII.** No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of [being a pauper;] or[, if a pauper,] because of the non-payment of a poll tax.

Voting precincts in towns. For absentee voting provision, see amendments, Art. XLV.

**Art. XXIX.** The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

Voters not disqualified by reason of change of residence until six months from time of removal. For absentee voting provision, see amendments, Art. XLV.

**Art. XXX.** No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal.

Amendments, Art. XXVIII, amended.

**Art. XXXI.** Article twenty-eight of the amendments of the constitution is hereby amended by striking out in the fourth line thereof the words "being a pauper", and inserting in place thereof the words:—receiving or having received aid from any city or town,—and also by striking out in said fourth line the words "if a pauper", so that the article as amended shall read as follows: ARTICLE XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

Person who served in army or navy, etc., not disqualified from voting for non-payment of poll tax.

**Art. XXXII.** So much of article three of the amendments of the constitution of the commonwealth as is contained in the following words: "and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned", is hereby annulled.

Provisions of amendments, Art. III, relative to payment of a tax as a voting qualification, annulled.

**Art. XXXIII.** A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

Quorum, in each branch of the general court, to consist of a majority of members.

**Art. XXXIV.** So much of article two of section one of chapter two of part the second of the constitution of the commonwealth as is contained in the following words: "and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds"; is hereby annulled.

Provisions of Art. II, § I, Chap. II, Part II, relative to property qualification of governor, annulled.

**Art. XXXV.** So much of article two of section three of chapter one of the constitution of the commonwealth as is contained in the following words: "The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave", is hereby annulled.

Provisions of Art. II, § III, Chap. I, relative to expense of travelling to the general assembly by members of the house, annulled.

**Art. XXXVI.** So much of article nineteen of the articles of amendment to the constitution of the commonwealth as is contained in the following words: "commissioners of insolvency", is hereby annulled.

Amendments, Art. XIX, amended.

**Art. XXXVII.** The governor, with the consent of the council, may remove justices of the peace and notaries public.

Removal of certain officers.

**Art. XXXVIII.** Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law: *provided, however*, that the right of secret voting shall be preserved.

Voting machines may be used at elections. For compulsory voting, see amendments, Art. LXI.

**Art. XXXIX.** Article ten of part one of the constitution is hereby amended by adding to it the following words:—The legislature may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a

Powers of the legislature relative to the taking of land, etc., for widening or relocating highways, etc.

Proviso.

county, city or town, of more land and property than are needed for the actual construction of such highway or street: *provided, however*, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

Amendments,  
Art. III,  
amended.

**Art. XI.** Article three of the amendments to the constitution is hereby amended by inserting after the word "guardianship", in line two, the following:— and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections.

Taxation of  
wild or forest  
lands.

**Art. XII.** Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth.

Referendum.  
This article  
annulled and  
superseded by  
amendments,  
Art. XLVIII,  
General Pro-  
visions, VIII.

**Art. XIII.** [Full power and authority are hereby given and granted to the general court to refer to the people for their rejection or approval at the polls any act or resolve of the general court or any part or parts thereof. Such reference shall be by a majority yea and nay vote of all members of each house present and voting. Any act, resolve, or part thereof so referred shall be voted on at the regular state election next ensuing after such reference, shall become law if approved by a majority of the voters voting thereon, and shall take effect at the expiration of thirty days after the election at which it was approved or at such time after the expiration of the said thirty days as may be fixed in such act, resolve or part thereof.]

Powers of the  
general court  
relative to the  
taking of land,  
etc., to relieve  
congestion of  
population  
and to provide  
homes for  
citizens.  
Proviso.

**Art. XIII.** The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: *provided, however*, that this amendment shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof.

Credit of the commonwealth restricted by amendments, Art. LXII, sect. 1.

Powers of the  
general court  
relative to  
imposing and  
levying a tax  
on income;  
exemptions,  
etc.

**Art. XLIV.** Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate

throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

**Art. XLV.** The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants in the choice of any officer to be elected or upon any question submitted at such election.

Powers of the general court to provide by law for absentee voting. For compulsory voting, see amendments, Art. LXI.

**Art. XLVI.** (In place of article XVIII of the articles of amendment of the constitution ratified and adopted April 9, 1821, the following article of amendment, submitted by the constitutional convention, was ratified and adopted November 6, 1917.) **ARTICLE XVIII. SECTION 1.** No law shall be passed prohibiting the free exercise of religion.

No law to prohibit free exercise of religion. This amendment shall not be the subject of an initiative amendment. See amendments, Art. XLVIII, The initiative, II, sect. 2.

**SECTION 2.** All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in

Public money not to be expended to aid educational, charitable, religious or other institutions not wholly under public ownership and control, etc. Credit of the commonwealth restricted by amendments, Art. LXII, sect. 1.

Exceptions.

Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

Care or support in private hospitals, etc., of persons who are public charges.

SECTION 3. Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

Inmates of certain public institutions not to be deprived of religious exercises of their own faith; nor compelled to attend religious services, etc., against their will, etc.

SECTION 4. Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.

Time of taking effect.

SECTION 5. This amendment shall not take effect until the October first next succeeding its ratification and adoption by the people.

General court to determine manner of distribution of food, etc., during time of war, etc., by the commonwealth, cities and towns.

Art. XLVII. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessities of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine.

## Art. XLVIII.

### I. Definition.

Initiative and referendum, definition.

Legislative power shall continue to be vested in the general court; but the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit constitutional amendments and laws to the people for approval or rejection; and the popular referendum, which is the power of a specified number of voters to submit laws, enacted by the general court, to the people for their ratification or rejection.

## THE INITIATIVE.

II. *Initiative Petitions.*

SECTION 1. *Contents.* — An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition.

Contents of initiative petition.

SECTION 2. *Excluded Matters.* — No measure that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed, the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect.

Certain matters shall not be proposed by initiative petition.

Obligation upon general court, when a law is approved by the people.

Neither the eighteenth amendment of the constitution, as approved and ratified to take effect on the first day of October in the year nineteen hundred and eighteen, nor this provision for its protection, shall be the subject of an initiative amendment.

Anti-aid amendment, so-called (Art. XLVI), not to be subject of initiative amendment.

No proposition inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative or referendum petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail and the law martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly.

Certain individual rights not to be subject of initiative or referendum petition.

No part of the constitution specifically excluding any matter from the operation of the popular initiative and referendum shall be the subject of an initiative petition; nor shall this section be the subject of such a petition.

Further excluded matters.

The limitations on the legislative power of the general court in the constitution shall extend to the legislative power of the people as exercised hereunder.

Certain legislative limitations extended.

Initiative petition, mode of originating, etc.

SECTION 3. *Mode of Originating.* — Such petition shall first be signed by ten qualified voters of the commonwealth and shall then be submitted to the attorney-general, and if he shall certify that the measure is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December and that it contains only subjects not excluded from the popular initiative and which are related or which are mutually dependent, it may then be filed with the secretary of the commonwealth. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed measure as such description will appear on the ballot together with the names and residences of the first ten signers. All initiative petitions, with the first ten signatures attached, shall be filed with the secretary of the commonwealth not earlier than the first Wednesday of the September before the assembling of the general court into which they are to be introduced, and the remainder of the required signatures shall be filed not later than the first Wednesday of the following December.

Secretary of the commonwealth to furnish blank forms, etc.

Time of filing initiative petitions.

Transmission of proposed measure to the general court.

SECTION 4. *Transmission to the General Court.* — If an initiative petition, signed by the required number of qualified voters, has been filed as aforesaid, the secretary of the commonwealth shall, upon the assembling of the general court, transmit it to the clerk of the house of representatives, and the proposed measure shall then be deemed to be introduced and pending.

### III. *Legislative Action. General Provisions.*

Reference to legislative committee and report thereon.

SECTION 1. *Reference to Committee.* — If a measure is introduced into the general court by initiative petition, it shall be referred to a committee thereof, and the petitioners and all parties in interest shall be heard, and the measure shall be considered and reported upon to the general court with the committee's recommendations, and the reasons therefor, in writing. Majority and minority reports shall be signed by the members of said committee.

Legislative substitute for initiative measure.

SECTION 2. *Legislative Substitutes.* — The general court may, by resolution passed by yea and nay vote, either by the two houses separately, or in the case of a constitutional

amendment by a majority of those voting thereon in joint session in each of two years as hereinafter provided, submit to the people a substitute for any measure introduced by initiative petition, such substitute to be designated on the ballot as the legislative substitute for such an initiative measure and to be grouped with it as an alternative therefor.

#### IV. *Legislative Action on Proposed Constitutional Amendments.*

SECTION 1. *Definition.* — A proposal for amendment to the constitution introduced into the general court by initiative petition shall be designated an initiative amendment, and an amendment introduced by a member of either house shall be designated a legislative substitute or a legislative amendment.

Definition of initiative amendment and legislative substitute.

SECTION 2. *Joint Session.* — If a proposal for a specific amendment of the constitution is introduced into the general court by initiative petition signed by not less than twenty-five thousand qualified voters, or if in case of a proposal for amendment introduced into the general court by a member of either house, consideration thereof in joint session is called for by vote of either house, such proposal shall, not later than the second Wednesday in June, be laid before a joint session of the two houses, at which the president of the senate shall preside; and if the two houses fail to agree upon a time for holding any joint session hereby required, or fail to continue the same from time to time until final action has been taken upon all amendments pending, the governor shall call such joint session or continuance thereof.

Joint session to consider amendment to the constitution.

SECTION 3. *Amendment of Proposed Amendments.* — A proposal for an amendment to the constitution introduced by initiative petition shall be voted upon in the form in which it was introduced, unless such amendment is amended by vote of three-fourths of the members voting thereon in joint session, which vote shall be taken by call of the yeas and nays if called for by any member.

When governor shall call joint session.

Proposed amendment to the constitution, form in which to be voted upon.

SECTION 4. *Legislative Action.* — Final legislative action in the joint session upon any amendment shall be taken only by call of the yeas and nays, which shall be entered upon the journals of the two houses; and an unfavorable vote at any stage preceding final action shall be verified by call of the yeas and nays, to be entered in like manner. At such joint session a legislative amendment receiving the affirma-

Final legislative action to be taken by yeas and nays.

Reference to next general court.



tive votes of a majority of all the members elected, or an initiative amendment receiving the affirmative votes of not less than one-fourth of all the members elected, shall be referred to the next general court.

Submission of legislative amendment, etc., to the people.

SECTION 5. *Submission to the People.* — If in the next general court a legislative amendment shall again be agreed to in joint session by a majority of all the members elected, or if an initiative amendment or a legislative substitute shall again receive the affirmative votes of at least one-fourth of all the members elected, such fact shall be certified by the clerk of such joint session to the secretary of the commonwealth, who shall submit the amendment to the people at the next state election. Such amendment shall become part of the constitution if approved, in the case of a legislative amendment, by a majority of the voters voting thereon, or if approved, in the case of an initiative amendment or a legislative substitute, by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such amendment.

When amendment becomes part of the constitution.

#### V. *Legislative Action on Proposed Laws.*

SECTION 1. *Legislative Procedure.* — If an initiative petition for a law is introduced into the general court, signed by not less than twenty thousand qualified voters, a vote shall be taken by yeas and nays in both houses before the first Wednesday of June upon the enactment of such law in the form in which it stands in such petition. If the general court fails to enact such law before the first Wednesday of June, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit such proposed law to the people at the next state election. If it shall be approved by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, it shall become law, and shall take effect in thirty

Legislative procedure on law proposed by initiative petition, etc.

When measure becomes law and takes effect.

days after such state election or at such time after such election as may be provided in such law.

SECTION 2. *Amendment by Petitioners.* — If the general court fails to pass a proposed law before the first Wednesday of June, a majority of the first ten signers of the initiative petition therefor shall have the right, subject to certification by the attorney-general, filed as hereinafter provided, to amend the measure which is the subject of such petition. An amendment so made shall not invalidate any signature attached to the petition. If the measure so amended, signed by a majority of the first ten signers, is filed with the secretary of the commonwealth before the first Wednesday of the following July, together with a certificate signed by the attorney-general to the effect that the amendment made by such proposers is in his opinion perfecting in its nature and does not materially change the substance of the measure, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit the measure to the people in its amended form.

Amendment of proposed law by petitioners and submission of measure to the people by the secretary of the commonwealth.

#### VI. *Conflicting and Alternative Measures.*

If in any judicial proceeding, provisions of constitutional amendments or of laws approved by the people at the same election are held to be in conflict, then the provisions contained in the measure that received the largest number of affirmative votes at such election shall govern.

Conflicting and alternative measures, which shall govern when approved by the people, etc.

A constitutional amendment approved at any election shall govern any law approved at the same election.

The general court, by resolution passed as hereinbefore set forth, may provide for grouping and designating upon the ballot as conflicting measures or as alternative measures, only one of which is to be adopted, any two or more proposed constitutional amendments or laws which have been or may be passed or qualified for submission to the people at any one election: *provided*, that a proposed constitutional amendment and a proposed law shall not be so grouped, and that the

General court to provide for grouping, etc., upon the ballot.

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ballot shall afford an opportunity to the voter to vote for each of the measures or for only one of the measures, as may be provided in said resolution, or against each of the measures so grouped as conflicting or as alternative. In case more than one of the measures so grouped shall receive the vote required for its approval as herein provided, only that one for which the largest affirmative vote was cast shall be deemed to be approved.

Only measure receiving largest affirmative vote to be deemed approved.

## THE REFERENDUM.

*I. When Statutes shall take Effect.*

When laws passed by general court take effect.

No law passed by the general court shall take effect earlier than ninety days after it has become a law, excepting laws declared to be emergency laws and laws which may not be made the subject of a referendum petition, as herein provided.

*II. Emergency Measures.*

Emergency law to contain preamble.

Yeas and nays vote thereon.

How governor may cause certain laws to take effect forthwith.

Exception.

A law declared to be an emergency law shall contain a preamble setting forth the facts constituting the emergency, and shall contain the statement that such law is necessary for the immediate preservation of the public peace, health, safety or convenience. A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each house voting thereon, the law shall not be an emergency law; but if the governor, at any time before the election at which it is to be submitted to the people on referendum, files with the secretary of the commonwealth a statement declaring that in his opinion the immediate preservation of the public peace, health, safety or convenience requires that such law should take effect forthwith and that it is an emergency law and setting forth the facts constituting the emergency, then such law, if not previously suspended as hereinafter provided, shall take effect without suspension, or if such law has been so suspended such suspension shall thereupon terminate and such law shall thereupon take effect: but no grant of any franchise or amendment thereof, or renewal or extension thereof for more than one year shall be declared to be an emergency law.

### III. *Referendum Petitions.*

SECTION 1. *Contents.* — A referendum petition may ask for a referendum to the people upon any law enacted by the general court which is not herein expressly excluded.

Contents of referendum petition.

SECTION 2. *Excluded Matters.* — No law that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal or compensation of judges; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions shall be the subject of a referendum petition.

Certain matters shall not be the subject of a referendum petition.

SECTION 3. *Mode of Petitioning for the Suspension of a Law and a Referendum thereon.* — A petition asking for a referendum on a law, and requesting that the operation of such law be suspended, shall first be signed by ten qualified voters and shall then be filed with the secretary of the commonwealth not later than thirty days after the law that is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than fifteen thousand qualified voters of the commonwealth, then the operation of such law shall be suspended, and the secretary of the commonwealth shall submit such law to the people at the next state election, if thirty days intervene between the date when such petition is filed with the secretary of the commonwealth and the date for holding such state election; if thirty days do not so intervene, then such law shall be submitted to the people at the next following state election, unless in the meantime it shall have been repealed; and if it shall be approved by a majority of the qualified voters voting thereon, such law shall, subject to the provisions of the constitution, take effect in thirty days after such election, or at such time after such election as may be provided in

Mode of petitioning for the suspension of a law and a referendum thereon.

Duties of the secretary of the commonwealth, etc.

Votes necessary for approval, etc.

such law; if not so approved such law shall be null and void; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Petitions for referendum on an emergency law or a law the suspension of which is not asked for.

SECTION 4. *Petitions for Referendum on an Emergency Law or a Law the Suspension of which is not asked for.* — A referendum petition may ask for the repeal of an emergency law or of a law which takes effect because the referendum petition does not contain a request for suspension, as aforesaid. Such petition shall first be signed by ten qualified voters of the commonwealth, and shall then be filed with the secretary of the commonwealth not later than thirty days after the law which is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition filed as aforesaid is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than ten thousand qualified voters of the commonwealth protesting against such law and asking for a referendum thereon, then the secretary of the commonwealth shall submit such law to the people at the next state election, if thirty days intervene between the date when such petition is filed with the secretary of the commonwealth and the date for holding such state election. If thirty days do not so intervene, then it shall be submitted to the people at the next following state election, unless in the meantime it shall have been repealed; and if it shall not be approved by a majority of the qualified voters voting thereon, it shall, at the expiration of thirty days after such election, be thereby repealed; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Duties of the secretary of the commonwealth, etc.

Votes necessary for approval, etc.

## GENERAL PROVISIONS.

### *I. Identification and Certification of Signatures.*

Identification and certification of signatures to petitions, etc.

Provision shall be made by law for the proper identification and certification of signatures to the petitions hereinbefore referred to, and for penalties for signing any such petition, or refusing to sign it, for money or other valuable

consideration, and for the forgery of signatures thereto. Pending the passage of such legislation all provisions of law relating to the identification and certification of signatures to petitions for the nomination of candidates for state offices or to penalties for the forgery of such signatures shall apply to the signatures to the petitions herein referred to. The general court may provide by law that no co-partnership or corporation shall undertake for hire or reward to circulate petitions, may require individuals who circulate petitions for hire or reward to be licensed, and may make other reasonable regulations to prevent abuses arising from the circulation of petitions for hire or reward.

Law to regulate petitions circulated for hire or reward.

## II. *Limitation on Signatures.*

Not more than one-fourth of the certified signatures on any petition shall be those of registered voters of any one county.

Limitation on signatures.

## III. *Form of Ballot.*

Each proposed amendment to the constitution, and each law, submitted to the people, shall be described on the ballots by a description to be determined by the attorney-general, subject to such provision as may be made by law, and the secretary of the commonwealth shall give each question a number and cause such question, except as otherwise authorized herein, to be printed on the ballot in the following form:—

Form of question on ballot, etc.

In the case of an amendment to the constitution: Shall an amendment to the constitution (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	
NO.	

In the case of a law: Shall a law (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	
NO.	

## IV. *Information for Voters.*

The secretary of the commonwealth shall cause to be printed and sent to each registered voter in the commonwealth the full text of every measure to be submitted to the people, together with a copy of the legislative committee's majority and minority reports, if there be such, with the

Certain information for voters to be sent by secretary of the commonwealth.

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names of the majority and minority members thereon, a statement of the votes of the general court on the measure, and a description of the measure as such description will appear on the ballot; and shall, in such manner as may be provided by law, cause to be prepared and sent to the voters other information and arguments for and against the measure.

*V. The Veto Power of the Governor.*

The veto power of the governor shall not extend to measures approved by the people.

Governor's veto not to extend to certain measures.

*VI. The General Court's Power of Repeal.*

Subject to the veto power of the governor and to the right of referendum by petition as herein provided, the general court may amend or repeal a law approved by the people.

Power of amendment or repeal of a law by general court.

*VII. Amendment declared to be Self-executing.*

This article of amendment to the constitution is self-executing, but legislation not inconsistent with anything herein contained may be enacted to facilitate the operation of its provisions.

This amendment to be self-executing, etc.

*VIII. Articles IX and XLII of Amendments of the Constitution annulled.*

Article IX and Article XLII of the amendments of the constitution are hereby annulled.

Amendments, Arts. IX and XLII, annulled.

**Art. XLIX.** The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the commonwealth are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor.

Conservation, etc., of natural resources of the commonwealth.

**Art. L.** Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law.

Regulation by law of advertising on public ways, etc.

**Art. LI.** The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe.

General court may prescribe for taking ancient landmarks, etc.

**Art. LII.** The general court, by concurrent vote of the two houses, may take a recess or recesses amounting to not more than thirty days; but no such recess shall extend beyond the sixtieth day from the date of their first assembling.

General court may take a recess.

**Art. LIII.** Article X of Section I of Chapter II of the constitution, the last two paragraphs of Article IV of the articles of amendment, relating to the appointment of a commissary general and the removal of militia officers, and Article V of the articles of amendment are hereby annulled, and the following is adopted in place thereof: **ARTICLE X.** All military and naval officers shall be selected and appointed and may be removed in such manner as the general court may by law prescribe, but no such officer shall be appointed unless he shall have passed an examination prepared by a competent commission or shall have served one year in either the federal or state militia or in military service. All such officers who are entitled by law to receive commissions shall be commissioned by the governor.

Certain articles of constitution annulled and superseded.

Military and naval officers, how appointed and removed, etc.

**Art. LIV.** Article VII of Section I of Chapter II of the constitution is hereby annulled and the following is adopted in place thereof: **ARTICLE VII.** The general court shall provide by law for the recruitment, equipment, organization, training and discipline of the military and naval forces. The governor shall be the commander-in-chief thereof, and shall have power to assemble the whole or any part of them for training, instruction or parade, and to employ them for the suppression of rebellion, the repelling of invasion, and the enforcement of the laws. He may, as authorized by the general court, prescribe from time to time the organization of the military and naval forces and make regulations for their government.

Certain article of constitution annulled and superseded.

Military and naval forces, recruitment, etc.

**Art. LV.** Article VI of Section III of Chapter II of the constitution is hereby annulled and the following is adopted in place thereof: Whenever the offices of governor and lieutenant-governor shall both be vacant, by reason of death, absence from the commonwealth, or otherwise, then one of the following officers, in the order of succession herein

Certain article of constitution annulled and superseded.

Order of succession in office of governor, etc., in case of vacancy.



named, namely, the secretary, attorney-general, treasurer and receiver-general, and auditor, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters and things as the governor or the lieutenant-governor might or could lawfully do or execute, if they, or either of them, were personally present.

Return by governor to general court of bill or resolve for amendment, etc.

**Art. LVI.** The governor, within five days after any bill or resolve shall have been laid before him, shall have the right to return it to the branch of the general court in which it originated with a recommendation that any amendment or amendments specified by him be made therein. Such bill or resolve shall thereupon be before the general court and subject to amendment and re-enactment. If such bill or resolve is re-enacted in any form it shall again be laid before the governor for his action, but he shall have no right to return the same a second time with a recommendation to amend.

Amendments, Art. IV, amended.

Women may be appointed notaries public, etc.

**Art. LVII.** Article IV of the articles of amendment of the constitution of the commonwealth is hereby amended by adding thereto the following words:— Women shall be eligible to appointment as notaries public. Change of name shall render the commission void, but shall not prevent re-appointment under the new name.

Article I, Chapter III of Part the Second, amended. Judicial officers, retirement of, etc.

**Art. LVIII.** Article I of Chapter III of Part the Second of the constitution is hereby amended by the addition of the following words:— and provided also that the governor, with the consent of the council, may after due notice and hearing retire them because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

Every charter, etc., subject to revocation, etc.

**Art. LIX.** Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment.

Building zones in cities and towns.

**Art. LX.** The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns.

Compulsory voting at elections.

**Art. LXI.** The general court shall have authority to provide for compulsory voting at elections, but the right of secret voting shall be preserved.

Commonwealth's credit not to be given to private enterprises.

**Art. LXII.** SECTION 1. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed.

SECTION 2. The commonwealth may borrow money to repel invasion, suppress insurrection, defend the commonwealth, or to assist the United States in case of war, and may also borrow money in anticipation of receipts from taxes or other sources, such loan to be paid out of the revenue of the year in which it is created.

Commonwealth may borrow money for certain purposes.

SECTION 3. In addition to the loans which may be contracted as before provided, the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The governor shall recommend to the general court the term for which any loan shall be contracted.

Two-thirds yeas and nays vote of general court required to borrow money.

SECTION 4. Borrowed money shall not be expended for any other purpose than that for which it was borrowed or for the reduction or discharge of the principal of the loan.

Expenditure of borrowed money limited.

**Art. LXIII.** SECTION 1. *Collection of Revenue.* — All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof.

Collection of revenue.

SECTION 2. *The Budget.* — Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. This shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary.

The budget, contents, etc.

General court to prescribe form, etc.

Governor may require information.

SECTION 3. *The General Appropriation Bill.* — All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the general appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedure as the original budget.

The general appropriation bill.

Supplementary budgets.

Special appropriation bills may be enacted, when.

**SECTION 4. *Special Appropriation Bills.*** — After final action on the general appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained.

Governor may disapprove, etc., items or parts of items in any appropriation bill, etc.

**SECTION 5. *Submission to the Governor.*** — The governor may disapprove or reduce items or parts of items in any bill appropriating money. So much of such bill as he approves shall upon his signing the same become law. As to each item disapproved or reduced, he shall transmit to the house in which the bill originated his reason for such disapproval or reduction, and the procedure shall then be the same as in the case of a bill disapproved as a whole. In case he shall fail so to transmit his reasons for such disapproval or reduction within five days after the bill shall have been presented to him, such items shall have the force of law unless the general court by adjournment shall prevent such transmission, in which case they shall not be law.

Items to have force of law, unless, etc.

Biennial election of state officers, councillors, senators and representatives; terms of office.

**Art. LXIV. SECTION 1.** The governor, lieutenant-governor, councillors, secretary, treasurer and receiver-general, attorney-general, auditor, senators and representatives, shall be elected biennially. The governor, lieutenant-governor and councillors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of the secretary, treasurer and receiver-general, attorney-general and auditor, shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified.

Treasurer ineligible for more than three successive terms.

**SECTION 2.** No person shall be eligible to election to the office of treasurer and receiver-general for more than three successive terms.

General court to assemble annually.

**SECTION 3.** The general court shall assemble every year on the first Wednesday in January.

When first election under this article shall be held, etc.

**SECTION 4.** The first election to which this article shall apply shall be held on the Tuesday next after the first Mon-

day in November in the year nineteen hundred and twenty, and thereafter elections for the choice of all the officers before-mentioned shall be held biennially on the Tuesday next after the first Monday in November.

**Art. LXV.** No person elected to the general court shall during the term for which he was elected be appointed to any office created or the emoluments whereof are increased during such term, nor receive additional salary or compensation for service upon any recess committee or commission except a committee appointed to examine a general revision of the statutes of the commonwealth when submitted to the general court for adoption.

Members of the general court not to be appointed to certain offices, nor receive compensation on recess committees, except, etc.

**Art. LXVI.** On or before January first, nineteen hundred twenty-one, the executive and administrative work of the commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the governor or the council, shall be placed. Such departments shall be under such supervision and regulation as the general court may from time to time prescribe by law.

Organization of not more than twenty departments to perform the executive and administrative work of the commonwealth, except, etc.

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The constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the mean time the constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the constitution had been adopted by the requisite number of votes, and the convention accordingly *Resolved*, "That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections, agreeable to this resolution." The first legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled, November 15, 1820, to the people, and by them ratified and adopted April 9, 1821.

## CONSTITUTION OF THE

The tenth Article was adopted by the legislatures of the political years 1829-30 and 1830-31, respectively, and was approved and ratified by the people May 11, 1831.

The eleventh Article was adopted by the legislatures of the political years 1832 and 1833, respectively, and was approved and ratified by the people November 11, 1833.

The twelfth Article was adopted by the legislatures of the political years 1835 and 1836, respectively, and was approved and ratified by the people the fourteenth day of November, 1836.

The thirteenth Article was adopted by the legislatures of the political years 1839 and 1840, respectively, and was approved and ratified by the people the sixth day of April, 1840.

The General Court of the year 1851 passed an Act calling a third Convention to revise the Constitution. The Act was submitted to the people, and a majority voted against the proposed Convention. In 1852, on the 7th of May, another Act was passed calling upon the people to vote upon the question of calling a Constitutional Convention. A majority of the people having voted in favor of the proposed Convention, election for delegates thereto took place in March, 1853. The Convention met in the State House, in Boston, on the 4th day of May, 1853, and organized by choosing Nathaniel P. Banks, Jr., President, and William S. Robinson and James T. Robinson, Secretaries. On the 1st of August, this Convention agreed to a form of Constitution, and on the same day was dissolved, after having provided for submitting the same to the people, and appointed a committee to meet to count the votes, and to make a return thereof to the General Court. The Committee met at the time and place agreed upon, and found that the proposed Constitution had been rejected.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth Articles were adopted by the legislatures of the political years 1854 and 1855, respectively, and ratified by the people the twenty-third day of May, 1855.

The twentieth, twenty-first, and twenty-second Articles were adopted by the legislatures of the political years 1856 and 1857, respectively, and ratified by the people on the first day of May, 1857.

The twenty-third Article was adopted by the legislatures of the political years 1858 and 1859, respectively, and ratified by the people on the ninth day of May, 1859, and was repealed by the twenty-sixth Amendment.

The twenty-fourth and twenty-fifth Articles were adopted by the legislatures of the political years 1859 and 1860, and ratified by the people on the seventh day of May, 1860.

The twenty-sixth Article was adopted by the legislatures of the political years 1862 and 1863, and ratified by the people on the sixth day of April, 1863.

The twenty-seventh Article was adopted by the legislatures of the political years 1876 and 1877, and was approved and ratified by the people on the sixth day of November, 1877.

The twenty-eighth Article was adopted by the legislatures of the political years 1880 and 1881, and was approved and ratified by the people on the eighth day of November, 1881.

The twenty-ninth Article was adopted by the legislatures of the political years 1884 and 1885, and was approved and ratified by the people on the third day of November, 1885.

The thirtieth and thirty-first Articles were adopted by the legislatures of the political years 1889 and 1890, and were approved and ratified by the people on the fourth day of November, 1890.

The thirty-second and thirty-third Articles were adopted by the legislatures of the political years 1890 and 1891, and were approved and ratified by the people on the third day of November, 1891.

The thirty-fourth Article was adopted by the legislatures of the political years 1891 and 1892, and was approved and ratified by the people on the eighth day of November, 1892.

The thirty-fifth Article was adopted by the legislatures of the political years 1892 and 1893, and was approved and ratified by the people on the seventh day of November, 1893.

The thirty-sixth Article was adopted by the legislatures of the political years 1893 and 1894, and was approved and ratified by the people on the sixth day of November, 1894.

## CONSTITUTION OF THE

The thirty-seventh Article was adopted by the legislatures of the political years 1906 and 1907, and was approved and ratified by the people on the fifth day of November, 1907.

The thirty-eighth Article was adopted by the legislatures of the political years 1909 and 1910, and was approved and ratified by the people on the seventh day of November, 1911.

The thirty-ninth Article was adopted by the legislatures of the political years 1910 and 1911, and was approved and ratified by the people on the seventh day of November, 1911.

The fortieth and forty-first Articles were adopted by the legislatures of the political years 1911 and 1912, and were approved and ratified by the people on the fifth day of November, 1912.

The forty-second Article was adopted by the legislatures of the political years 1912 and 1913, and was approved and ratified by the people on the fourth day of November, 1913.

The forty-third and forty-fourth Articles were adopted by the legislatures of the political years 1914 and 1915, and were approved and ratified by the people on the second day of November, 1915.

In his inaugural address to the General Court of 1916, Governor McCall recommended that the question of revising the Constitution, through a Constitutional Convention, be submitted to the people; and the General Court passed a law (chapter 98 of the General Acts of 1916) to ascertain and carry out the will of the people relative thereto, the question to be submitted being "Shall there be a convention to revise, alter or amend the constitution of the Commonwealth?" The people voted on this question at the annual election, held on November 7, casting 217,293 votes in the affirmative and 120,979 votes in the negative; and accordingly the Governor on Dec. 19, 1916, made proclamation to that effect, and, by virtue of authority contained in the act, called upon the people to elect delegates at a special election to be held on the first Tuesday in May, 1917. The election was on May 1. In accordance with the provisions of the act, the delegates met at the State House on June 6, 1917, and organized by choosing John L. Bates, president, and James W. Kimball, secretary. After considering and acting adversely on numerous measures that had been brought before it,

and after providing for submitting to the people the forty-fifth, forty-sixth and forty-seventh Articles, at the state election of 1917, and the Article relative to the establishment of the popular initiative and referendum and the legislative initiative of specific amendments of the Constitution (Article forty-eight) at the state election of 1918, the Convention adjourned on November 28 "until called by the President or Secretary to meet not later than within ten days after the prorogation of the General Court of 1918."

The forty-fifth, forty-sixth, and forty-seventh Articles were submitted, by delegates in convention assembled, September 28, 1917, August 30, 1917, and October 11, 1917, respectively, to the people, and by them ratified and adopted November 6, 1917.

On Wednesday, June 12, 1918, the convention reassembled and resumed its work. Eighteen more articles (Articles forty-nine to sixty-six, inclusive) were approved by the convention and were ordered to be submitted to the people. On Wednesday, August 21, 1918, the convention adjourned, "to meet, subject to call by the President or Secretary, not later than within twenty days after the prorogation of the General Court of 1919, for the purpose of taking action on the report of the special committee on Rearrangement of the Constitution."

The forty-eighth Article was submitted, by delegates in convention assembled, November 28, 1917, the forty-ninth Article, August 7, 1918, the fiftieth to the sixtieth Articles, inclusive, August 15, 1918, the sixty-first to the sixty-fourth Articles, inclusive, August 20, 1918, and the sixty-fifth and sixty-sixth Articles, August 21, 1918, to the people, and by them ratified and adopted, November 5, 1918.

On Tuesday, August 12, 1919, pursuant to a call of its President, the Convention again convened. A rearrangement of the Constitution was adopted, and was ordered to be submitted to the people for their ratification. On the following day, a sub-committee of the Special Committee on Rearrangement of the Constitution was "empowered to correct clerical and typographical errors and establish the text of the rearrangement of the Constitution to be submitted to the people, in conformity with that adopted by the Convention."

On Wednesday, August 13, 1919, the Convention adjourned, *sine die*.

On Tuesday, November 4, 1919, the rearrangement was approved and ratified by the people.



PROPOSED AMENDMENTS REJECTED BY THE  
PEOPLE.

[A proposed Article of Amendment prohibiting the manufacture and sale of Intoxicating Liquor as a beverage, adopted by the legislatures of the political years 1888 and 1889, was rejected by the people on the twenty-second day of April, 1889.]

[Proposed Articles of Amendment, (1) Establishing biennial elections of state officers, and (2) Establishing biennial elections of members of the General Court, adopted by the legislatures of the political years 1895 and 1896, were rejected by the people at the annual election held on the third day of November, 1896.]

[A proposed Article of Amendment to make Women eligible to appointment as Notaries Public, adopted by the legislatures of the political years 1912 and 1913, was rejected by the people on the fourth day of November, 1913.]

[A proposed Article of Amendment enabling Women to vote, adopted by the legislatures of the political years 1914 and 1915, was rejected by the people on the second day of November, 1915.]

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**THE REARRANGEMENT OF THE CONSTITUTION  
SUBMITTED BY THE CONSTITUTIONAL CONVENTION AND  
RATIFIED BY THE PEOPLE**

**AT THE**

**STATE ELECTION, NOVEMBER 4, 1919**

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A CONSTITUTION  
OR  
FORM OF GOVERNMENT

FOR  
**The Commonwealth of Massachusetts**  
[REARRANGEMENT.]

PREAMBLE.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

Objects of government.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

Body politic, how formed. Its nature.

We, therefore, the people of Massachusetts, inhabiting the territory formerly called the Province of Massachusetts Bay, acknowledging, with grateful hearts, the goodness of the Great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil govern-

Body politic established under the name of The Commonwealth of Massachusetts.

## CONSTITUTION OF THE COMMONWEALTH

ment, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do hereby solemnly and mutually agree with each other, to form ourselves into a free, sovereign, and independent body politic, or state, by the name of The Commonwealth of Massachusetts, and do agree upon, ordain, and establish, the following DECLARATION OF RIGHTS, AND FRAME OF GOVERNMENT, AS THE CONSTITUTION thereof.

### A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

Equality and natural rights of all men.

ARTICLE 1. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship. Protection therein.

ART. 2. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the Great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Religious freedom established.

ART. 3. *Section 1.* As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people; and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by

such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

*Section 2.* No law shall be passed prohibiting the free exercise of religion.

No law to prohibit free exercise of religion.

All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

Public money not to be expended to aid educational, charitable, religious or other institutions not wholly under public ownership and control, etc.

Exceptions.

Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

Care or support in private hospitals, etc., of persons who are public charges.

Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or

Inmates of certain public institutions not to be

deprived of religious exercises of their own faith; nor compelled to attend religious services, etc., against their will, etc.  
Right of self government secured.

Accountability of all officers, etc.

Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.

Objects of government; right of people to institute and change it.

Right of people to secure rotation in office.

All, having the qualifications prescribed, equally eligible to office. For the definition of "inhabitant," see Art. 46.

charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.

ART. 4. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America.

ART. 5. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

ART. 6. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, law-giver, or judge, is absurd and unnatural.

ART. 7. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

ART. 8. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

ART. 9. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

ART. 10. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not contrrollable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

Right of protection and duty of contribution correlative. Taxation founded on consent.

Private property not to be taken for public uses without, etc.

ART. 11. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

Remedies, by recourse to the law, to be free, complete and prompt.

ART. 12. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

Prosecutions regulated.

Right to trial by jury in criminal cases, except, etc.

The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Benefit of *habeas corpus* secured, except, etc.



Crimes to be proved in the vicinity.

ART. 13. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

Right of search and seizure regulated. Const. of U. S., Amendment IV.

ART. 14. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

Right of trial by jury sacred, except, etc. Const. of U. S., Amendment VII.

ART. 15. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

Liberty of the press.

ART. 16. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

Right to keep and bear arms. Standing armies dangerous. Military power subordinate to civil.

ART. 17. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Moral qualifications for office.

ART. 18. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Moral obligations of lawgivers and magistrates.

Right of people to instruct representatives and petition legislature.

ART. 19. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to re-

quest of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

ART. 20. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Power to suspend the laws or their execution.

ART. 21. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Freedom of debate, etc., and reason therefor.

ART. 22. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

Frequent sessions, and objects thereof.

ART. 23. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

Taxation founded on consent.

ART. 24. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

*Ex post facto* laws prohibited.

ART. 25. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Legislature not to convict of treason, etc.

ART. 26. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

Excessive bail or fines, and cruel punishments, prohibited.

ART. 27. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

No soldier to be quartered in any house, unless, etc.

ART. 28. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy; and except the militia in actual service, but by authority of the legislature.

Citizens exempt from law-martial, unless, etc.

ART. 29. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as

Judges of supreme judicial court.

the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

Separation of executive, judicial, and legislative departments.

ART. 30. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

## THE FRAME OF GOVERNMENT.

### SUFFRAGE. ELECTIONS. TERMS OF OFFICE.

Qualifications of voters for governor, lieutenant-governor, senators and representatives.

ART. 31. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who shall have resided within the commonwealth one year, and within the city or town in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election.

Reading constitution in English and writing, necessary qualifications of voters.  
Proviso.

ART. 32. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: provided, however, that these provisions shall not apply to any person prevented by physical disability from complying with them, nor to any person who had the right to vote when these provisions were adopted.

Person who served in army or navy, etc., not disqualified from voting for receiving municipal aid or for non-payment of poll tax.  
Voters not disqualified by reason of

ART. 33. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

ART. 34. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and repre-

sentatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal.

change of residence until six months from time of removal.

ART. 35. The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants, in the choice of any officer to be elected or upon any question submitted at such election.

General court to provide by law for absent voting.

ART. 36. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Plurality of votes shall elect by the people.

ART. 37. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law, and the general court shall have authority to provide for compulsory voting at elections; provided that the right of secret voting shall be preserved.

Voting machines permitted at elections.

Compulsory voting.

Proviso.

ART. 38. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings.

Voting precincts in towns.

ART. 39. Beginning with the Tuesday next after the first Monday in November in the year nineteen hundred and twenty, the governor, lieutenant-governor, councillors, secretary, treasurer, attorney-general, auditor, senators and representatives shall be elected biennially, and thereafter elections for the choice of these officers shall be held biennially on the Tuesday next after the first Monday in November. The governor, lieutenant-governor and councillors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election, and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election. The terms of the secretary, treasurer, attorney-general and auditor shall begin with the third Wednesday in January succeeding their election and

Biennial election of state officers, councillors, senators and representatives; when first election shall be held.

Terms of office.

shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified.

Elections to be held by the two houses of the legislature, completion of.

Order of filling vacancies in certain offices.

ART. 40. Elections appointed to be held by the two houses of the legislature on the first Wednesday in January or at any other time, if not completed on the day appointed may be adjourned from day to day until the same shall be completed. Vacancies in the office of governor and lieutenant-governor shall be first filled in the order named and then vacancies in the council.

### THE LEGISLATIVE DEPARTMENT.

#### THE GENERAL COURT.

Legislative department.

ART. 41. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

Commencement and termination of political year. General court to assemble annually, etc.

The political year shall begin on the first Wednesday in January, and the general court shall assemble every year on the first Wednesday in January, and at such other times as they shall judge necessary, or when called together by the governor; and shall dissolve and be dissolved on the day next preceding the first Wednesday in January in the third year following their election, without any proclamation or other act of the governor, and shall be styled, **THE GENERAL COURT OF MASSACHUSETTS.**

Quorum, in each branch of the general court, to consist of a majority of members.

General court may take recess.

A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. By concurrent vote of the two houses, the general court may take a recess or recesses amounting to not more than thirty days; but no such recess shall extend beyond the sixtieth day from the date of their annual assembling.

The enacting style by the general court.

The enacting style, in making and passing all acts, statutes, and laws, shall be — “Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same.”

Members of the general court not to be appointed to certain offices, nor receive compensation on recess committees, except, etc.

ART. 42. No person elected to the general court shall during the term for which he was elected be appointed to any office created or the emoluments whereof are increased during such term, nor receive additional salary or compensation for service upon any recess committee or commission except a committee appointed to examine a general revision

of the statutes of the commonwealth when submitted to the general court for adoption.

ART. 43. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revision; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

Governor's veto.

Bill may be passed by two-thirds of each house, notwithstanding.

The governor, within five days after any bill or resolve shall have been laid before him, shall have the right to return it to the branch of the general court in which it originated with a recommendation that any amendment or amendments specified by him be made therein. Such bill or resolve shall thereupon be before the general court and subject to amendment and re-enactment. If such bill or resolve is re-enacted in any form it shall again be laid before the governor for his action, but he shall have no right to return the same a second time with a recommendation to amend.

Return by governor to general court of bill or resolve for amendment, etc.

In order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

When bill or resolve to have force of a law.

If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

Bill, etc., not approved within five days, not to become a law, if general court adjourn in the meantime.

## THE SENATE.

Census of  
inhabitants,  
when taken,  
etc.

Special  
enumeration  
of legal voters,  
etc.

Enumeration  
to determine  
apportionment  
of senators.

Senate, num-  
ber of members,  
districts, etc.

Proviso.

Qualifications  
of senators.

Manner and  
time of choos-  
ing senators.

Persons  
qualified  
to vote.

Word  
"inhabitant"  
defined.

ART. 44. A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand nine hundred and twenty-five; and every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city such enumeration shall specify the number of legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census.

ART. 45. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: provided, however, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district.

Each district shall elect biennially for the term of two years one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth.

ART. 46. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner: there shall be a meeting on the Tuesday next after the first Monday in November, biennially, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before such Tuesday, for the purpose of electing persons to be senators; and at such meetings every male inhabitant of twenty-one years of age and upwards, qualified as provided in this constitution, shall have a right to give in his vote for the senator for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant" in this con-

stitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that city or town where he dwelleth, or hath his home.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before the first Wednesday in January biennially; or it shall be delivered into the secretary's office seventeen days at least before the said first Wednesday in January: and the sheriff of each county shall deliver all such certificates by him received into the secretary's office, seventeen days before such first Wednesday.

Selectmen to preside at town meetings.

Return of votes.

ART. 47. And that there may be a due convention of senators on the first Wednesday in January annually, the governor with five of the council, for the time being, shall, as soon as may be after each biennial election, examine the returned copies of such records; and after each biennial election fourteen days before such Wednesday he shall issue his summons to such persons as shall appear to be chosen by the highest number of votes to attend on that day, and take their seats accordingly.

Governor and council to examine and count votes, and issue summonses.

ART. 48. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, on the first Wednesday in January biennially, determine and declare who is elected by each district to be senator by the highest number of votes. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of senators elected.

Senate to be final judge of elections, etc., of its own members.

Vacancies, how filled.

ART. 49. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

Senate shall choose its officers and establish its rules.



## CONSTITUTION OF THE COMMONWEALTH

Not to adjourn  
for more than  
two days.

ART. 50. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

Shall try all  
impeachments.

ART. 51. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and maladministration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

Oath.

Limitation of  
sentence.

## THE HOUSE OF REPRESENTATIVES.

Representation  
of the people.

ART. 52. There shall be, in the legislature of this commonwealth, a representation of the people, biennially elected, and founded upon the principle of equality.

Enumeration to  
determine ap-  
portionment of  
representatives.

ART. 53. The special enumeration of legal voters hereinbefore required in the case of the senate shall determine the apportionment of representatives for the periods between the taking of the census.

House of repre-  
sentatives to  
consist of  
240 members.  
Legislature to  
apportion, etc.

The house of representatives shall consist of two hundred and forty members. The representatives shall be apportioned by the legislature, at its first session after the return of each such special enumeration, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts.

Secretary shall  
certify to  
officers author-  
ized to divide  
counties.

Meeting for  
division to be  
first Tuesday  
of August.  
Proceedings.

The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, or in lieu of the mayor and aldermen of the city of Boston, or of the

county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives.

Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law.

Qualifications  
of representa-  
tives.

Districts to be  
numbered,  
described and  
certified.

ART. 54. Every member of the house of representatives shall be chosen by written votes. A vote by a lawfully authorized voting machine or other mechanical device shall be deemed a written vote. The house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Representa-  
tives, how  
chosen.

Towns liable  
to fine in case,  
etc.

ART. 55. The members of the house of representatives shall be chosen biennially as hereinbefore provided on the Tuesday next after the first Monday in November; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

Time of elec-  
tion of repre-  
sentatives.

ART. 56. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House alone  
can impeach.  
Senate to try  
impeachments.

House to originate money bills.

Not to adjourn more than two days.

To judge of returns, etc., of its own members; choose its officers and establish its rules, etc. May punish for certain offences.

Privileges of members.

Senate, governor and council may punish.

General limitation.

Trial may be by committee, or otherwise.

ART. 57. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

ART. 58. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

ART. 59. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general court.

ART. 60. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

#### LEGISLATIVE POWERS.

General court may constitute judicatories, courts of record, etc.

ART. 61. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, complaints, actions,

matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

Courts, etc.,  
may administer oaths.

ART. 62. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

Legislature to prescribe for the election of sheriffs, registers of probate, etc.

ART. 63. And further, full power and authority are hereby given and granted to the general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the

General court may enact laws, etc., not repugnant to the constitution.

May provide for the election or appointment of officers, and prescribe their duties.

May impose taxes, etc.

governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

Valuation of estates once in ten years, at least, etc.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

Powers of the general court relative to imposing and levying a tax on income.

ART. 64. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

Exemptions, etc.

General court empowered to charter cities.

ART. 65. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote

Proviso.

at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court. Proviso.

ART. 66. The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: provided, however, that this article shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof. Powers of the general court relative to the taking of land, etc., to relieve congestion of population and to provide homes for citizens. Proviso.

ART. 67. The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the commonwealth, are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor. Conservation, etc., of natural resources of the commonwealth.

ART. 68. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth. Taxation of wild or forest lands.

ART. 69. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessities of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine. General court to determine manner of distribution of food, etc., during time of war, etc., by the commonwealth, cities and towns.

ART. 70. The general court may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: provided, however, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions. General court to provide for the taking of land, etc., for widening or relocating highways, etc. Proviso.

Building zones  
in cities and  
towns.

ART. 71. The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns.

Regulation by  
law of adver-  
tising on public  
ways, etc.

ART. 72. Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law.

General court  
may prescribe  
for taking  
ancient land-  
marks, etc.

ART. 73. The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe.

Organisation of  
not more than  
twenty depart-  
ments to  
perform the  
executive and  
administrative  
work of the  
common-  
wealth, except,  
etc.

ART. 74. On or before January first, nineteen hundred twenty-one, the executive and administrative work of the commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the governor or the council, shall be placed. Such departments shall be under such supervision and regulation as the general court may from time to time prescribe by law.

Every charter,  
etc., subject to  
revocation, etc.

ART. 75. Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment.

#### THE INITIATIVE AND REFERENDUM.

##### DEFINITION.

Initiative and  
referendum,  
definition.

ART. 76. Legislative power shall continue to be vested in the general court; but the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit constitutional amendments and laws to the people for approval or rejection; and the popular referendum, which is the power of a specified number of voters to submit laws, enacted by the general court, to the people for their ratification or rejection.

#### THE INITIATIVE.

##### INITIATIVE PETITIONS.

Contents of  
initiative  
petition.

ART. 77. *Contents.* — An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition.

Certain matters  
shall not be  
proposed by

ART. 78. *Excluded Matters.* — No measure that relates to religion, religious practices or religious institutions; or

to the appointment, qualification, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed, the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect.

initiative petition.

Obligation upon general court, when a law is approved by the people.

Neither the provisions of this constitution embodied in article three, section two of the declaration of rights, nor this provision for their protection, shall be the subject of an initiative amendment.

Anti-aid amendment, so-called, not to be subject of initiative amendment.

No measure inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail and the law martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly.

Certain individual rights not to be subject of initiative amendment.

No part of the constitution specifically excluding any matter from the operation of the popular initiative and referendum shall be the subject of an initiative petition; nor shall this article be the subject of such a petition.

Further excluded matters.

The limitations on the legislative power of the general court in the constitution shall extend to the legislative power of the people as exercised hereunder.

Certain legislative limitations extended.

ART. 79. *Mode of Originating.* — Such petition shall first be signed by ten qualified voters of the commonwealth and shall then be submitted to the attorney-general, and if he shall certify that the measure is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December and that it contains only subjects not excluded from the popular initiative and which are related or which are mutually dependent, it may then be filed with the secretary of the commonwealth. The secretary of the commonwealth shall provide blanks for the use of subsequent signers,

Initiative petition, mode of originating, etc.

Secretary of the commonwealth to



furnish blank forms, etc.

Time of filing initiative petitions.

Transmission of proposed measure to the general court.

and shall print at the top of each blank a description of the proposed measure as such description will appear on the ballot together with the names and residences of the first ten signers. All initiative petitions with the first ten signatures attached, shall be filed with the secretary of the commonwealth not earlier than the first Wednesday of the September before the annual assembling of the general court into which they are to be introduced, and the remainder of the required signatures shall be filed not later than the first Wednesday of the following December.

ART. 80. *Transmission to the General Court.* — If an initiative petition, signed by the required number of qualified voters, has been filed as aforesaid, the secretary of the commonwealth shall, upon the next assembling of the general court, transmit it to the clerk of the house of representatives, and the proposed measure shall then be deemed to be introduced and pending.

#### LEGISLATIVE ACTION. GENERAL PROVISIONS.

Reference to legislative committee and report thereon.

ART. 81. *Reference to Committee.* — If a measure is introduced into the general court by initiative petition, it shall be referred to a committee thereof, and the petitioners and all parties in interest shall be heard, and the measure shall be considered and reported upon to the general court with the committee's recommendations, and the reasons therefor, in writing. Majority and minority reports shall be signed by the members of said committee.

Legislative substitute for initiative measure.

ART. 82. *Legislative Substitutes.* — The general court may, by resolution passed by yea and nay vote, either by the two houses separately, or in the case of a constitutional amendment by a majority of those voting thereon in joint session in each of two general courts successively elected as hereinafter provided, submit to the people a substitute for any measure introduced by initiative petition, such substitute to be designated on the ballot as the legislative substitute for such an initiative measure and to be grouped with it as an alternative therefor.

#### LEGISLATIVE ACTION ON PROPOSED CONSTITUTIONAL AMENDMENTS.

Definition of initiative amendment and legislative substitute.

ART. 83. *Definition.* — A proposal for amendment to the constitution introduced into the general court by initiative petition shall be designated an initiative amendment, and an

amendment introduced by a member of either house shall be designated a legislative substitute or a legislative amendment.

ART. 84. *Joint Session.* — If a proposal for a specific amendment of the constitution is introduced into the general court by initiative petition signed by not less than twenty-five thousand qualified voters, or if in case of a proposal for amendment introduced into the general court by a member of either house, consideration thereof in joint session is called for by vote of either house, such proposal shall, not later than the second Wednesday in the following June, be laid before a joint session of the two houses, at which the president of the senate shall preside; and if the two houses fail to agree upon a time for holding any joint session hereby required, or fail to continue the same from time to time until final action has been taken upon all amendments pending, the governor shall call such joint session or continuance thereof.

Joint session to consider amendment to the constitution.

When governor shall call joint session.

ART. 85. *Amendment of Proposed Amendments.* — A proposal for an amendment to the constitution introduced by initiative petition shall be voted upon in the form in which it was introduced, unless such amendment is amended by vote of three-fourths of the members voting thereon in joint session, which vote shall be taken by call of the yeas and nays if called for by any member.

Proposed amendment to the constitution, form in which to be voted upon.

ART. 86. *Legislative Action.* — Final legislative action in the joint session upon any amendment shall be taken only by call of the yeas and nays, which shall be entered upon the journals of the two houses; and an unfavorable vote at any stage preceding final action shall be verified by call of the yeas and nays, to be entered in like manner. At such joint session a legislative amendment receiving the affirmative votes of a majority of all the members elected, or an initiative amendment receiving the affirmative votes of not less than one-fourth of all the members elected, shall be referred to the general court next to be elected.

Final legislative action to be taken by yeas and nays.

Reference to general court next to be elected.

ART. 87. *Submission to the People.* — If in the general court next elected a legislative amendment shall again be agreed to in joint session by a majority of all the members elected, or if an initiative amendment shall again receive the affirmative votes of at least one-fourth of all the members elected, such fact shall be certified by the clerk of such joint session to the secretary of the commonwealth, who shall submit the amendment to the people at the next biennial state election.

Submission of legislative amendment, etc., to the people.

When an amendment becomes part of the constitution.

An amendment shall become part of the constitution if approved, in the case of a legislative amendment, by a majority of the voters voting thereon, or if approved, in the case of an initiative amendment or a legislative substitute, by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such amendment.

#### LEGISLATIVE ACTION ON PROPOSED LAWS.

Legislative procedure on law proposed by initiative petition, etc.

ART. 88. *Legislative Procedure.* — If an initiative petition for a law is introduced into the general court, signed by not less than twenty thousand qualified voters, a vote shall be taken by yeas and nays in both houses before the first Wednesday of the following June upon the enactment of such law in the form in which it stands in such petition. If the general court fails to enact such law before such first Wednesday of June, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit such proposed law to the people at the next biennial state election. If it shall be approved by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, it shall become law, and shall take effect in thirty days after such state election or at such time after such election as may be provided in such law.

When measure becomes law and takes effect.

Amendment of proposed law by petitioners and submission of measure to the people by the secretary of the commonwealth.

ART. 89. *Amendment by Petitioners.* — If the general court fails to pass a proposed law before such first Wednesday of June, a majority of the first ten signers of the initiative petition therefor shall have the right, subject to certification by the attorney-general filed as hereinafter provided, to amend the measure which is the subject of such petition. An amendment so made shall not invalidate any signature attached to the petition. If the measure so amended, signed by a majority of the first ten signers, is filed with the secretary of the commonwealth before the first Wednesday of the following July, together with a certificate signed by the attorney-general to the effect that the amendment made by such proposers is in his opinion perfecting in its nature and

does not materially change the substance of the measure, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit the measure to the people in its amended form.

CONFLICTING AND ALTERNATIVE MEASURES.

ART. 90. If in any judicial proceeding, provisions of constitutional amendments or of laws approved by the people at the same election are held to be in conflict, then the provisions contained in the measure that received the largest number of affirmative votes at such election shall govern.

Conflicting and alternative measures, which shall govern when approved by the people, etc.

ART. 91. A constitutional amendment approved at any election shall govern any law approved at the same election.

Constitutional amendment to govern law, etc.

ART. 92. The general court, by resolution passed as hereinbefore set forth, may provide for grouping and designating upon the ballot as conflicting measures or as alternative measures, only one of which is to be adopted, any two or more proposed constitutional amendments or laws which have been or may be passed or qualified for submission to the people at any one election: provided, that a proposed constitutional amendment and a proposed law shall not be so grouped, and that the ballot shall afford an opportunity to the voter to vote for each of the measures or for only one of the measures, as may be provided in said resolution, or against each of the measures so grouped as conflicting or as alternative. In case more than one of the measures so grouped shall receive the vote required for its approval as herein provided, only that one for which the largest affirmative vote was cast shall be deemed to be approved.

General court to provide for grouping, etc., upon the ballot.

Provido.

Only measure receiving largest affirmative vote to be deemed approved.

THE REFERENDUM.

WHEN STATUTES SHALL TAKE EFFECT.

ART. 93. No law passed by the general court shall take effect earlier than ninety days after it has become a law, excepting laws declared to be emergency laws and laws which may not be made the subject of a referendum petition, as herein provided.

When certain laws passed by the general court take effect.

## EMERGENCY MEASURES.

Emergency law to contain preamble.

Yea and nay vote thereon.

How governor may cause certain laws to take effect forthwith.

Certain franchise grants accepted.

ART. 94. A law declared to be an emergency law shall contain a preamble setting forth the facts constituting the emergency, and shall contain the statement that such law is necessary for the immediate preservation of the public peace, health, safety or convenience. A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each house voting thereon, the law shall not be an emergency law.

But if the governor, at any time before the election at which a law may be submitted to the people on referendum, files with the secretary of the commonwealth a statement declaring that in his opinion the immediate preservation of the public peace, health, safety or convenience requires that such law should take effect forthwith and that it is an emergency law and setting forth the facts constituting the emergency, then such law, if not previously suspended as herein-after provided, shall thereupon take effect, or if such law has been so suspended such suspension shall thereupon terminate and such law shall take effect.

No grant of any franchise or amendment thereof, or renewal or extension thereof for more than one year shall be declared to be an emergency law.

## REFERENDUM PETITIONS.

Contents of referendum petition.

Certain matters shall not be the subject of a referendum petition.

Mode of petitioning for the suspension of a law and a referendum thereon.

ART. 95. *Contents.* — A referendum petition may ask for a referendum to the people upon any law enacted by the general court which is not herein expressly excluded.

ART. 96. *Excluded Matters.* — No law that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal or compensation of judges; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions shall be the subject of a referendum petition.

ART. 97. *Mode of Petitioning for the Suspension of a Law and a Referendum thereon.* — A petition asking for a referendum on a law, and requesting that the operation of such

law be suspended, shall first be signed by ten qualified voters and shall then be filed with the secretary of the commonwealth not later than thirty days after the law that is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than fifteen thousand qualified voters of the commonwealth, then the operation of such law shall be suspended, and the secretary of the commonwealth shall submit such law to the people at the next biennial state election, if thirty days intervene between the date when such petition is so completed and filed with the secretary of the commonwealth and the date for holding such state election; if thirty days do not so intervene, then such law shall be submitted to the people at the next following biennial state election, unless in the meantime it shall have been repealed; and if it shall be approved by a majority of the qualified voters voting thereon, such law shall, subject to the provisions of the constitution, take effect in thirty days after such election, or at such time after such election as may be provided in such law; if not so approved such law shall be null and void; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Duties of the secretary of the commonwealth, etc.

Votes necessary for approval, etc.

ART. 98. *Petitions for Referendum on an Emergency Law or a Law the Suspension of which is not asked for.* — A referendum petition may ask for the repeal of an emergency law or of a law which takes effect because the referendum petition does not contain a request for suspension, as aforesaid. Such petition shall first be signed by ten qualified voters of the commonwealth, and shall then be filed with the secretary of the commonwealth not later than thirty days after the law which is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition filed as aforesaid is completed by filing with the secretary of the

Petitions for referendum on an emergency law or a law the suspension of which is not asked for.

Duties of the secretary of the commonwealth, etc.

## CONSTITUTION OF THE COMMONWEALTH

commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than ten thousand qualified voters of the commonwealth protesting against such law and asking for a referendum thereon, then the secretary of the commonwealth shall submit such law to the people at the next biennial state election, if thirty days intervene between the date when such petition is so completed and filed with the secretary of the commonwealth and the date for holding such state election. If thirty days do not so intervene, then it shall be submitted to the people at the next following biennial state election, unless in the meantime it shall have been repealed; and if it shall not be approved by a majority of the qualified voters voting thereon, it shall, at the expiration of thirty days after such election, be thereby repealed; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Votes necessary  
for repeal, etc.

## GENERAL PROVISIONS.

## IDENTIFICATION AND CERTIFICATION OF SIGNATURES.

ART. 99. Provision shall be made by law for the proper identification and certification of signatures to the petitions hereinbefore referred to, and for penalties for signing any such petition, or refusing to sign it, for money or other valuable consideration, and for the forgery of signatures thereto. Pending the passage of such legislation all provisions of law relating to the identification and certification of signatures to petitions for the nomination of candidates for state offices or to penalties for the forgery of such signatures shall apply to the signatures to the petitions herein referred to. The general court may provide by law that no co-partnership or corporation shall undertake for hire or reward to circulate petitions, may require individuals who circulate petitions for hire or reward to be licensed, and may make other reasonable regulations to prevent abuses arising from the circulation of petitions for hire or reward.

Identification  
and certifica-  
tion of signa-  
tures to  
petitions, etc.

Law to regu-  
late petitions  
circulated for  
hire or reward.

## LIMITATION ON SIGNATURES.

ART. 100. Not more than one-fourth of the certified signatures on any petition shall be those of registered voters of any one county.

Limitation on  
signatures.

## FORM OF BALLOT.

ART. 101. Each proposed amendment to the constitution, and each law submitted to the people, shall be described on the ballots by a description to be determined by the attorney-general, subject to such provision as may be made by law, and the secretary of the commonwealth shall give each question a number and cause such question, except as otherwise authorized herein, to be printed on the ballot in the following form:

Description on ballots to be determined by the attorney-general, etc.

ART. 102. In the case of an amendment to the constitution: Shall an amendment to the constitution (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

Form of question on amendment to constitution.

YES.	
NO.	

ART. 103. In the case of a law: Shall a law (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

Form of question on a law.

YES.	
NO.	

## INFORMATION FOR VOTERS.

ART. 104. The secretary of the commonwealth shall cause to be printed and sent to each registered voter in the commonwealth the full text of every measure to be submitted to the people, together with a copy of the legislative committee's majority and minority reports, if there be such, with the names of the majority and minority members thereon, a statement of the votes of the general court on the measure, and a description of the measure as such description will appear on the ballot; and shall, in such manner as may be provided by law, cause to be prepared and sent to the voters other information and arguments for and against the measure.

Certain information for voters to be sent by the secretary of the commonwealth.

## THE VETO POWER OF THE GOVERNOR.

ART. 105. The veto power of the governor shall not extend to measures approved by the people.

Governors' veto not to extend to certain measures.

## THE GENERAL COURT'S POWER OF REPEAL.

ART. 106. Subject to the veto power of the governor and to the right of referendum by petition as herein provided, the general court may amend or repeal a law approved by the people.

Law approved by the people may be amended, etc., by the general court.



INITIATIVE AND REFERENDUM DECLARED TO BE SELF-EXECUTING.

Initiative and referendum amendment to be self-executing, etc.

ART. 107. The provisions of the initiative and referendum are self-executing, but legislation not inconsistent with anything therein contained may be enacted to facilitate the operation of such provisions.

STATE BUDGET AND VETO OF ITEMS BY THE GOVERNOR.  
— LENDING CREDIT OF COMMONWEALTH.

The budget, contents, etc.

ART. 108. *The Budget.* — Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. This shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary.

General court to prescribe form, etc.

Governor may require information from boards, etc.

The general appropriation bill and powers of the general court.

ART. 109. *The General Appropriation Bill.* — All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the general appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedure as the original budget.

Governor may recommend supplementary budgets.

When special appropriation bills may be enacted, etc.

ART. 110. *Special Appropriation Bills.* — After final action on the general appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained.

Governor may disapprove, etc., items or

ART. 111. *Submission to the Governor.* — The governor may disapprove or reduce items or parts of items in any bill

appropriating money. So much of such bill as he approves shall upon his signing the same become law. As to each item disapproved or reduced, he shall transmit to the house in which the bill originated his reasons for such disapproval or reduction, and the procedure shall then be the same as in the case of a bill disapproved as a whole. In case he shall fail so to transmit his reasons for such disapproval or reduction within five days after the bill shall have been presented to him, such items shall have the force of law unless the general court by adjournment shall prevent such transmission, in which case they shall not be law.

parts of items in any appropriation bill, etc.

Items to have force of law, unless, etc.

ART. 112. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed.

Commonwealth's credit not to be given to private enterprises.

ART. 113. The commonwealth may borrow money to repel invasion, suppress insurrection, defend the commonwealth, or to assist the United States in case of war, and may also borrow money in anticipation of receipts from taxes or other sources, such loan to be paid out of the revenue of the year in which it is created.

Commonwealth may borrow money for certain purposes.

ART. 114. In addition to the loans which may be contracted as before provided, the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The governor shall recommend to the general court the term for which any loan shall be contracted.

Two-thirds yeas and nay vote of general court required to borrow money, etc.

ART. 115. Borrowed money shall not be expended for any other purpose than that for which it was borrowed or for the reduction or discharge of the principal of the loan.

Expenditure of borrowed money limited.

## THE EXECUTIVE DEPARTMENT.

### THE GOVERNOR.

ART. 116. There shall be a supreme executive magistrate, who shall be styled THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be HIS EXCELLENCY.

Governor.  
His title.

ART. 117. The governor shall be chosen biennially; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding.

To be chosen biennially.  
Qualifications.

ART. 118. Those persons who shall be qualified to vote for senators and representatives within the several towns of

By whom chosen, if he has a

plurality of  
votes.

this commonwealth shall, at a meeting to be called for that purpose, on the Tuesday next after the first Monday in November biennially, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of such list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday in January; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before such first Wednesday in January; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before such day; and the secretary shall lay the same before the senate and the house of representatives on the first Wednesday in January, to be by them examined; and the person having the highest number of votes shall be deemed and declared to be elected, but if no person shall have been so elected, the house of representatives on the first Wednesday in January shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

Transmission  
of votes, etc.

How chosen,  
when no person  
has a plurality.

Power of gov-  
ernor, and of  
governor and  
council.

ART. 119. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

May adjourn  
or prorogue the  
general court  
upon request,  
and convene  
the same, etc.

ART. 120. The governor, with the advice of the council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner

than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the general court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held, at some other, the most convenient place within the state.

ART. 121. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with the advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

Governor and council may adjourn the general court in cases, etc., but not exceeding ninety days.

ART. 122. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of the council; but no charter of pardon, granted by the governor, with the advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

Governor and council may pardon offences, except, etc.

But not before conviction.

ART. 123. All judicial officers, the solicitor-general, and coroners, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Judicial officers, etc., how nominated and appointed.

Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years. Women shall be eligible to appointment as notaries public. Change of name shall render the commission void, but shall not prevent reappointment under the new name. The governor, with the consent of the council, may remove justices of the peace and notaries public.

Notaries public, how appointed.

Women eligible, etc.

Removal from office.

ART. 124. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto. The tenure, that all commissioned officers shall by law have in their offices, shall be expressed in their respective commissions.

Commissions, how signed, etc.

To express tenure of all commissioned officers.

ART. 125. All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof.

Collection of revenue.

Money, how drawn from the treasury, except, etc.

No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

All public boards, etc., to make quarterly returns.

ART. 126. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent.

Boards, etc., to send governor despatches, etc., of a public nature.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

Salary of governor.

ART. 127. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws.

Salaries of justices of supreme judicial court. General court may enlarge certain salaries if insufficient.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

## THE LIEUTENANT-GOVERNOR.

ART. 128. There shall be biennially elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be HIS HONOR; and who shall be qualified, in point of residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have the highest number of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no person shall have the highest number of the votes of the people to be governor.

Lieutenant-governor; his title and qualifications.

Election in same manner as governor.

How chosen, when no person has a plurality.

ART. 129. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

President of council. Lieutenant-governor a member of, except, etc.

ART. 130. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

Lieutenant-governor to be acting governor, in case, etc.

## THE COUNCIL.

ART. 131. There shall be a council for advising the governor in the executive part of the government, to consist of eight persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

The council to advise the governor, number, etc.

ART. 132. Eight councillors shall be biennially chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor.

Eight councillors to be chosen biennially by the people.

## CONSTITUTION OF THE COMMONWEALTH

The general court, at its first session after each decennial state census, shall divide the commonwealth into eight districts of contiguous territory, each of which districts shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the general court, and each of such eight districts containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the elections, shall be the same as are required in the election of governor.

Eligibility  
defined.

Day and  
manner of  
election, etc.

Vacancies in  
the council,  
how filled.

ART. 133. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

Organisation  
of the gov-  
ernment.

ART. 134. And that there may be no delay in the organization of the government on the first Wednesday in January, the governor, with at least five councillors for the time being, shall biennially, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before such first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on such first Wednesday in January, to be by them examined; and in case of the election of either of such officers, the choice shall be by them declared and published; but in case there shall be no election of either of such officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

Secretary's  
duties, etc.

Rank of  
councillors.

ART. 135. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

Register  
of council.

ART. 136. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either

house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

ART. 137. Whenever the offices of governor and lieutenant-governor shall both be vacant, by reason of death, absence from the commonwealth, or otherwise, then one of the following officers, in the order of succession herein named, namely, the secretary, attorney-general, treasurer, and auditor, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters and things as the governor or the lieutenant-governor might or could lawfully do or execute, if they, or either of them, were personally present.

Order of succession in office of governor, etc., in case of vacancy.

SECRETARY. TREASURER. AUDITOR. ATTORNEY-GENERAL.

ART. 138. The secretary, treasurer, auditor, and attorney-general, shall be chosen biennially, on the Tuesday next after the first Monday in November; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of two years from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for such office on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could other-

Secretary, treasurer, auditor and attorney-general to be elected biennially by the people.

Qualifications of voters, manner of election, etc., to be such as are required to elect governor.

Vacancies, how filled.

To qualify within ten days, otherwise office to be deemed vacant.



## CONSTITUTION OF THE COMMONWEALTH

Qualification  
requisite.

Treasurer ineli-  
gible for more  
than three suc-  
cessive terms.  
Secretary to  
keep records;  
to attend the  
governor and  
council, etc.

wise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of such offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

No person shall be eligible to election to the office of treasurer for more than three successive terms.

ART. 139. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

## THE JUDICIAL DEPARTMENT.

Judicial  
officers to hold  
office during  
good behavior,  
except, etc.

Retirement  
because of  
advanced age,  
etc.

Justices of the  
peace; tenure  
of their office.

Provisions  
for holding  
probate courts.

ART. 140. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature; and provided also that the governor, with the consent of the council, may after due notice and hearing retire them because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

ART. 141. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed or another person appointed, as shall most conduce to the well-being of the commonwealth.

ART. 142. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places.

ART. 143. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

Marriage, divorce and alimony.  
Other provisions made by law.

ART. 144. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Provisions respecting writs.

ART. 145. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature, such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

Continuation of former laws, except, etc.

ART. 146. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required.

#### THE MILITIA.

ART. 147. The general court shall provide by law for the recruitment, equipment, organization, training and discipline of the military and naval forces. The governor shall be the commander-in-chief thereof, and shall have power to assemble the whole or any part of them for training, instruction or parade, and to employ them for the suppression of rebellion, the repelling of invasion, and the enforcement of the laws. He may, as authorized by the general court, prescribe from time to time the organization of the military and naval forces and make regulations for their government.

Military and naval forces, recruitment, etc.

ART. 148. All military and naval officers shall be selected and appointed and may be removed in such manner as the general court may by law prescribe, but no such officer shall be appointed unless he shall have passed an examination prepared by a competent commission or shall have served one year in either the federal or state militia or in military service. All such officers who are entitled by law to receive commissions shall be commissioned by the governor.

Military and naval officers, how appointed and removed, etc.

Governor to issue commissions.

## OATHS OF OFFICE. INCOMPATIBLE OFFICES. DISQUALIFICATIONS FOR OFFICE.

Oaths to be taken by all civil and military officers.

ART. 149. The following oaths shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit:

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, God."

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as \_\_\_\_\_, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, God."

Proviso.  
Persons declining to take oaths, shall make affirmation.

Provided, that when any person shall decline taking such oaths, he shall make his affirmation in the foregoing forms, omitting the word "swear" in the first oath, and inserting, instead thereof, the word "affirm", and omitting the words "swear and" in the second oath, and omitting the words "So help me, God", in each oath, and subjoining, instead thereof, the words "This I do under the pains and penalties of perjury."

Tests abolished.

No oath, declaration, or subscription, excepting the above oaths, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them for the duties of their respective offices.

Oaths and affirmations, how administered.

The said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor and councillors, before the president of the senate, in the presence of the two houses of the legislature; and by the senators and representatives before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

Plurality of offices prohibited to governor, etc., except, etc.

ART. 150. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of such court may hold the office of justice of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

No person shall be capable of holding or exercising at the same time, within this commonwealth, more than one of the following offices, namely: judge of probate, sheriff, register of probate, or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person. Same subject.

No person holding the office of judge of the supreme judicial court, secretary, attorney-general, solicitor-general, treasurer, judge of probate, commissary-general, sheriff, clerk of the house of representatives, register of probate, register of deeds, clerk of the supreme judicial court, or clerk of the inferior court of common pleas, shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up. Incompatible offices.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in the council; or any councillor shall accept of either of those offices or places. Incompatible offices.

ART. 151. And no person shall ever be admitted to hold a seat in the general court, or any office of trust or importance under the government of this commonwealth, who shall, in due course of law, have been convicted of bribery or corruption in obtaining an election or appointment. Bribery, etc., disqualify.

ART. 152. No judge of any court of this commonwealth, (except the court of sessions) and no person holding any office under the authority of the United States, (postmasters excepted) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions) nor the attorney-general, solicitor-general, district attorney, clerk of any court, sheriff, treasurer, register of probate, nor register of deeds, shall continue to hold such office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of such office; and Incompatible offices.

judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

#### THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE.

Harvard  
College.

ART. 153. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America, it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Powers,  
privileges, etc.,  
of the president  
and fellows,  
confirmed.

All gifts,  
grants, etc.,  
confirmed.

ART. 154. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

Power of  
alteration  
reserved to the  
general court.

ART. 155. Nothing herein shall be construed to prevent the general court of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done

by the general court under the provisions of the constitution adopted in seventeen hundred and eighty.

ART. 156. Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people.

Duty of legislatures and magistrates in all future periods.

#### CONTINUANCE AND ENROLLMENT.

ART. 157. Upon the ratification and adoption by the people of this rearrangement of the existing constitution and the amendments thereto, the constitution shall be deemed and taken to be so rearranged and shall appear in such rearranged form in all future publications thereof. Such rearrangement shall not be deemed or taken to change the meaning or effect of any part of the constitution or its amendments as theretofore existing or operative.

This rearrangement of the existing constitution, etc., to appear in all future publications thereof. Not to be deemed to change meaning, etc., of existing constitution.

ART. 158. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of such laws.

Provision for preserving and publishing the constitution.



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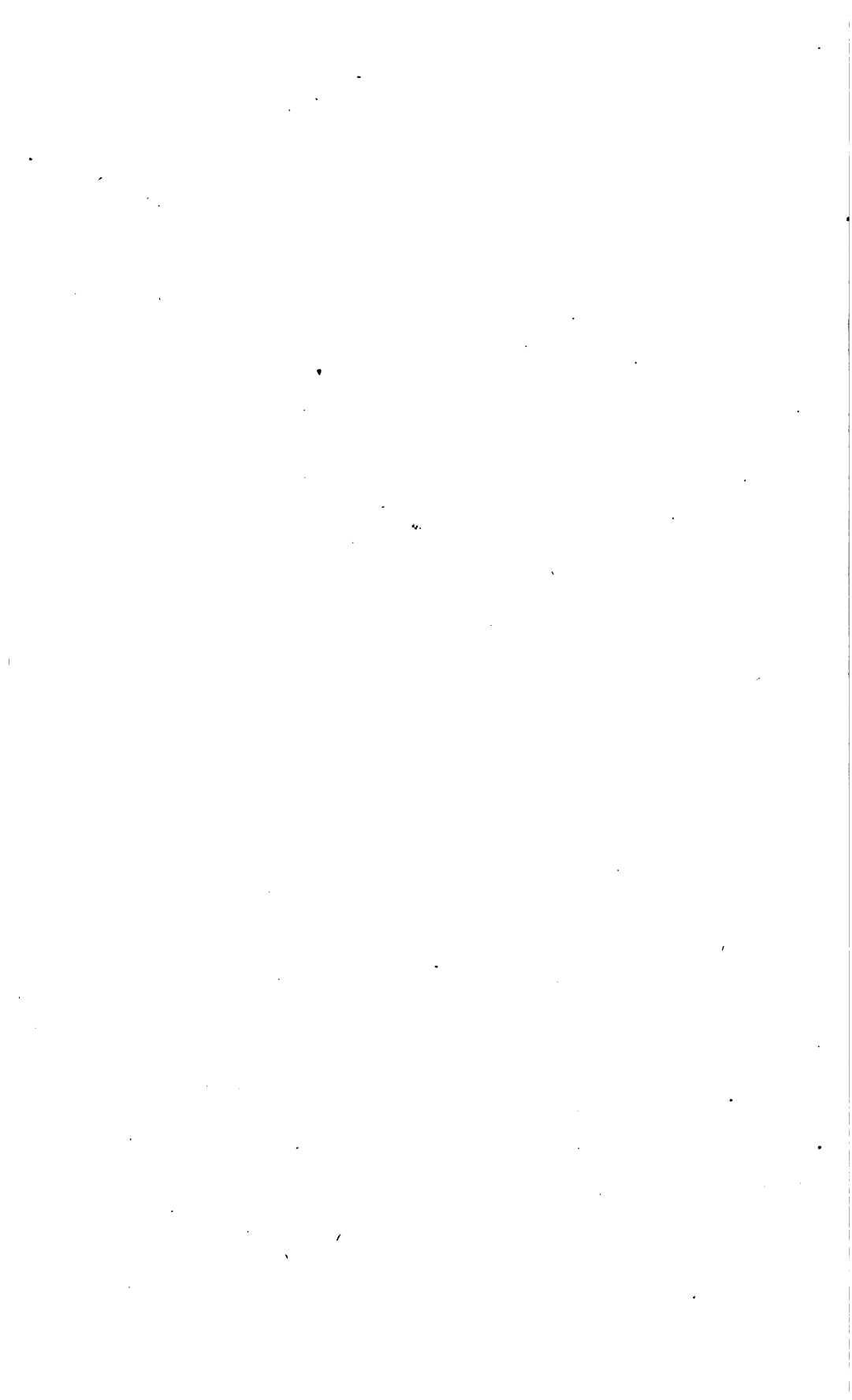
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**INDEX TO THE REARRANGEMENT OF THE  
CONSTITUTION.**

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